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THE

# DE IMPERATORUM ET PONTIFICUM POTESTATE

OF

# WILLIAM OF OCKHAM

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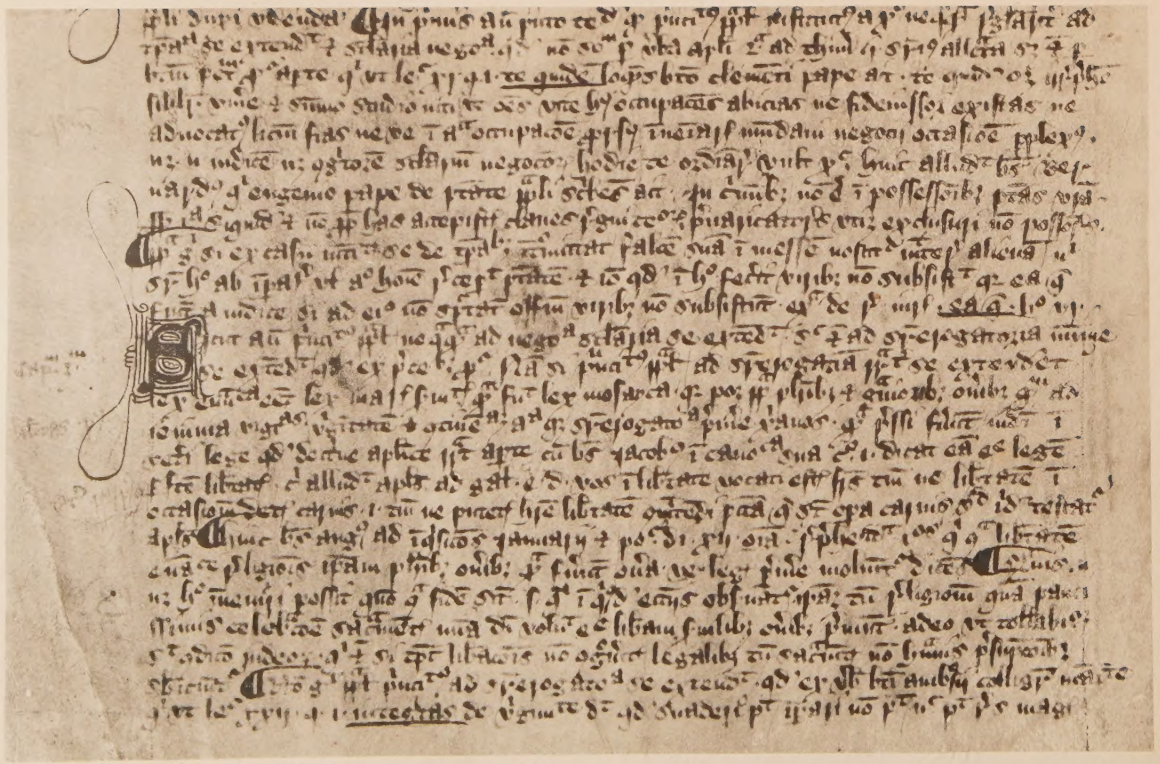

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THE

# DE IMPERATORUM ET PONTIFICUM POTESTATE

OF

# WILLIAM OF OCKHAM

HITHERTO UNPUBLISHED

NOW EDITED BY

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# PREFACE

THE present work of Ockham, hitherto unpublished, has been edited from the unique manuscript in the British Museum. I am indebted to the Director for permission to have rotographs taken from the manuscript and the collotype photograph printed in this edition.

The preparation of the text has received the first attention throughout. To this has been added an introduction on general lines, and some notes which still leave me, like Aeneas, *plura parantem dicere*. For all omissions and errors I must beg the reader's indulgence.

It would be difficult to acknowledge in detail the various books consulted during the preparation of this edition, though to Maitland's translation of Dr. Gierke's *Political Theories of the Middle Age*, forming for so many their first introduction to Ockham, the debt has been considerable. We have only to examine its pages to be convinced of two things. The marginal chapter headings alone show how extensively even this small text of Ockham touches upon the main problems of five centuries, and of the many authors, whose writings constitute the body of Dr. Gierke's researches, how few are now likely to find their way to the student's bookshelf.

My best thanks are due to the Directors of State and University Libraries for kind permission to examine other manuscript works of Ockham and his contemporaries, at Bâle, Munich, Vienna, Erfurt, Brunswick, Bremen, and the Bibliothèque Nationale in Paris: also to the Librarian of the Birmingham Free Library and to the Fathers of the Birmingham Oratory for permission to use the Library of their late Cardinal: and, as this edition has been the work of odd moments in a busy life, I am especially obliged to Dr. A. C. Cowley, Librarian at Bodley, and to his senior assistants, for prompt and helpful courtesy. I must also thank Mr. Kenneth Sisam for his advice and great patience in seeing these pages through the Press, and my cousin Dr. J. D. S. M$^{c}$Geoch for valuable assistance with the proof sheets and index.

C. K. B.

*Birmingham,*
*September* 1926.

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FACSIMILE OF MS. BRIT. MUS. ROYAL 10 A. XV *Frontispiece*

# INTRODUCTION

WE have before us a small and hitherto unpublished tract, written in 1346 or early in 1347 by William of Ockham, of the Order of Friars Minor. What is the attraction? Why should we devote one moment of leisure in trying either to prepare, or, harder still, to understand the text of a medieval author, unless we are satisfied that he deals with some fundamental problems of practical experience?

The problem which he considers, and which we also have to consider, is the age-long question of authority. It exists in the relation of parent to child, of schoolmaster to pupil, of parson to his flock, and of government to its subjects. We shall be tempted to inquire what essential differences there are in the nature of these various uses of authority. If we discover that the development of the individual is its chief end in each case, and that this development is retarded and arrested by an undue prolongation of authority, then the question will arise when, if ever, the authority so used should diminish? The problem will gain in complexity if it is found that during the Middle Ages the Church increased its authority at the expense of the others, and claimed for itself an absolute and unceasing obedience in every department of human life. It may aid us if we consider not only the claims of the Church together with the results of its policy, but also the steps by which it had acquired its power. When we are dealing with an authority which had such favourable conditions for the exercise of its functions it will not be out of place to contrast its claims and its performance, for it can hardly be urged that the period of history in question

was no fair trial of its use. These problems are as new as they are old, but as our setting is in the Middle Ages let us begin with our author and his claims upon our attention.

The appearance of a new text may be regarded in many ways. Ockham created a controversy in his own day and entered the arena of imperial polemics. Then he will be of antiquarian interest in so far as his words help to solve the dilemma of a historian or support the theory of a politician. He was quoted by authors of another century: then he had an influence in the world of letters upon those who remembered him. If they were great men perhaps Ockham may have some affinity with them. But this, useful enough in itself, is no explanation of Ockham's undoubted greatness, for so many have done all these things and still lie forgotten.

His importance may be found in the attachment of his name to the great movement for Church reform by the Protestants who first accepted the title on their return from Trent. They pointed him out, with Marsilius of Padua, as the earliest formulator of their ideas. And indeed, Ockham deals at length with the relations between Church and State, with the rights of governments and the management of ecclesiastical organization; but for many the story must end here, since in their belief the Reformation is as dead as Ockham.

Yet this is perhaps an error. The fact that the twentieth and sixteenth centuries differ greatly in themselves no one will call in question, but the achievement of living beyond his own century is enough to make us inquire along what lines he developed his arguments and in what spirit he applied his conclusions. If his teaching is still found to be of use as well to our own as to the age of Luther, he will never fail to attract, for the problems confronting him were

in essence the eternal problems which deal with religion on the one hand and a religious institution on the other.

Attacking the established system of his time with at least the candour of Tacitus and something more than the courage of Juvenal, he directed his efforts along the lines of development that lead directly to the invisible world. While in their treatment of the Church others have been content to advocate the removal of abuses and a redistribution of ecclesiastical forces—while they explain what are the functions of the priesthood, whether General Councils are above the Pope, why indulgences can be of no avail, and how the sacraments should be administered—Ockham penetrates below the surface. To him the Church in its corporate capacity was not enough. He used his intellect in the defence of freedom, and in the exercise of his powers won his way through a mass of externals to an underlying principle of religion, which, once grasped, will affect all our ideas of ethics, of education, and even of democracy itself. Reason and authority have often before been on hostile terms, but in him now and then we pass beyond the details of an arid controversy to the conflict between a personality and an institution; and we learn from him that in all matters of conduct and belief authority must remain the guide, and not the governor, of the intellect.

No medieval author, however, can be approached without an effort of the imagination. The mind must direct its attention to the surrounding influences of his times, so clearly different from our own: it must be prepared to face a problem within a problem, and consider the essential features of the Middle Ages. But the current of recent opinion flows by no means in one direction. Not so long ago one school of thought with its theory of automatic progress gave little heed to the childhood of modern Europe:

we had grown out of it, never to return. Another saw in the Middle Ages the negation of such freedom for philosophical inquiry as abounded in the classical world or at any time after Descartes. Popular opinion in many quarters has been no less unfavourable, suggesting by 'medieval' a term of reproach, an age of ignorance—crude, backward, and barbaric. But to-day there is no lack of revived interest. Roger Bacon, Francis of Assisi, and Joan of Arc have returned to life, while Dante is a familiar figure in the homes of many who have never read a line of him. These are welcome signs indeed to a student of the Middle Ages. But beyond all this, and from another source, comes a whole-hearted admiration for them, sweeping all before it, but born of reaction and nurtured in a spirit of uncompromising and reckless enthusiasm. In the midst of such conflicting opinions it will be best to adopt the attitude of Ockham, who was himself the great critic of the Middle Ages—so much so indeed that they are incomplete without him.

It may be said that in contrast to our modern systems the period from Hildebrand to Luther presents in all its diversity one distinguishing characteristic. It saw the domination of the West by the Latin Church in actual existence as fully and completely as human affairs allow. The Papacy made the Middle Ages what they were, and as it is to the effect of this triumph that Ockham applies his criticism, some inquiry into the actions of the Papacy will be needed to illustrate the nature of its authority and the extent of its power.

For this the life of Ockham is the best beginning in that it substantiates also his claim to speak from experience. He lived four years with a Pope and eighteen years with an Emperor. After escaping from a French prison he tramped across North Italy with a defeated army into

Germany. Thus he deals with the Continent from something of its own point of view, without losing the detachment peculiar to his race and education. Very different is the story of Wyclif. But Ockham was qualified in other ways: he was a minorite by profession, a scientist by nature, and a theologian by constraint. He read theology for a degree, being debarred by his Order from a study of the arts, but his main object in life was to follow the example of his master St. Francis. When this course was denied him, he plunged into the deeper questions of Christian tradition, bringing to them an attitude of mind satisfied by two things alone—experiment and result; and in this pursuit his energies were further heightened by the hostility of three Popes, John XXII, Benedict XII, and Clement VI. The quarrels of his life can be conveniently grouped round his visits to Oxford, Avignon, Pisa, and Munich.

Born at Ockham in Surrey at the close of the thirteenth century, William was most probably a member of the Franciscan Order when studying at Oxford about 1320. His Fellowship at Merton College is a legend, though it is only fair to add that the scholars of Europe have done all in their power to authenticate the connexion. A long thesis on the 'Sentences' of Peter Lombard, the recognized avenue to the degree of B.D., was his first literary venture. Two years later, in 1324, he wrote another work on theology. The degree of master seems never to have been conferred upon him by a university. Indeed, his own words suggest that he never got so far, for he refers to himself in the curious language of the time as a 'professor of the sacred page'. The title of 'invincible doctor' is the tribute of admiring posterity.

As a new centre of learning Oxford had done well in her great men: Bishop Grosseteste, Roger Bacon, Duns Scotus, and William of Ockham (to be followed in another

generation by John Wyclif) show that her powers were virile, if not always orthodox. Scotus, however, in spite of tradition, was never Ockham's master, either in fact or idea : for Ockham was a boy when Scotus died at Cologne, and he mentions himself many times as no follower of this great philosopher. Ockham drew his inspiration from the experimental science of Roger Bacon, which, employed now in the sphere of philosophy, filled his thesis on the 'Sentences' with thoughts at variance with the prejudices of his time. The great realist philosopher, Thomas Aquinas, had just been canonized in 1323, so that no more inconvenient occasion for the production of Nominalism could be imagined. Thus Ockham, during the first half of 1324, instead of remaining to take his master's degree, was hurried off to the papal palace at Avignon.

About this time, when he was passing to his destination, a political dissertation was completed in Paris by Marsilius of Padua. This gifted writer—once Rector of the University, a soldier, a canon, and possibly a lawyer too—was practising as a doctor and watching the struggle between John XXII and the Emperor Lewis of Bavaria. His searching analysis of Church and State makes the *Defensor Pacis* in many ways the most remarkable treatise of the Middle Ages. His *Defensor Minor* of 1342, a brief review of his earlier work, has an interest of its own when compared and contrasted with this present tract.

At Avignon Ockham was introduced to his fellow prisoners, Michael of Cesena, minister general of the Franciscan Order, and Bonagratia of Bergamo, its procurator. For two years these distinguished friars had been incarcerated for refusing to respect the ruling of John XXII. The quarrel, a century old and as old as the Order itself, would fill a small volume. The Conventuals, claiming a right to property held in common, had clung to

an interpretation of poverty which the Spirituals had stigmatized as contrary to the intention of St. Francis. Their mutual hostility subsided for a time when Nicholas III placed all the property of the Order in the hands of the Holy See, the friars retaining the mere use. But the re-opening of the whole question by John XXII flung them all into confusion. Suffice it for the moment that Ockham took the side of Michael.

In May 1328, after nearly four years, Ockham, Michael, and Bonagratia escaped under cover of night. With one cardinal in hot pursuit they were chased all the way to Aigues Mortes, whence they were soon conveyed in a dinghy to a warship sent by the Emperor Lewis. In a month the three lucky heretics reached Pisa in safety. The Pope made no secret of his chagrin. They were to be hunted down and brought to Avignon forthwith. Even in so far a see as Cologne the bishop was warned to keep watch for them. Nor can it occasion surprise that the loss was felt so bitterly, for with the Franciscans in revolt the possession of their minister was a great prize, while the brilliance of Bonagratia as a civil and canon lawyer was admitted equally by his friends, his rivals, and his enemies. It may have seemed strange at first that one so young and obscure as Ockham should have shared so fully the animosity directed against two such distinguished leaders of thought; but the Church was soon to learn that he was much more dangerous than either.

At Pisa, on their arrival in June 1328, lay the imperial army, mostly German. Only fourteen years had elapsed since Henry VIII, the previous emperor, had died in Lombardy, on his way from Milan to an imperial coronation in Rome; and now Lewis of Bavaria was on his way home from Rome to Munich with the imperial crown conferred in defiance of the Pope. Chosen on the death of

Henry by a majority of the Electors, Lewis was immediately opposed by others of their number, who raised up Frederick of Austria in his stead. Support from Avignon had been accorded naturally to Frederick, the weaker of the two rivals, till Lewis defeated him in battle. Far more serious was the hostility of Pope John XXII. Elected in 1316 at the age of seventy-two he combined the experience of half a century with a vigour lasting for another eighteen years. Avaricious and irrascible, he was a consummate lawyer and a disciplinarian of the old school.

The inevitable irritation between Pope and Emperor was hardly lessened by the ambition of John XXII to emulate the examples of Hildebrand and Innocent III. He ordered Lewis, though duly crowned by his own people, to abandon all interference in the affairs of the empire, and to wait for his approval of the election. Unwilling to subordinate the empire to the papacy Lewis struggled on, till the defeat of Frederick, the papal exactions in Germany, and the sympathy of the Ghibellines in Italy, gave him a united support for his scheme. The imperial forces moved slowly from Trent to Milan, where Lewis received the Iron Crown. In Rome, early in 1327, the delegates of the people authorized his coronation as Holy Roman Emperor. Not content with this Lewis had John XXII deposed as a heretic, with the result that a humbler friar, raised to the Apostolic Chair as Nicholas V, accorded his imperial master a last and fourth coronation. But four crowns could not outweigh the creation of an Antipope. Lewis, welcomed at first as a deliverer, now withdrew, derided and forgotten, from Rome to Pisa, where he remained for about a year. By December 1329 the imperialists were once more in Germany.

While Ockham and his friends were entering upon their long sojourn in Munich the Antipope, left behind at Pisa,

made his submission to John XXII, who spared his life and kept him for the rest of his days in honourable captivity at Avignon. In contrast to his learned supporters Lewis also begged for reunion with the Church, but John XXII, Benedict XII, and Clement VI were in turn equally opposed to forgiveness. A crisis in the struggle arose in 1338 when a Diet was held at Rhense. Conflicting and untrustworthy evidence makes it difficult to determine what decisions were reached by this council, but one fact remains clear, that Lewis still enjoyed the loyal support of his countrymen.

This popularity, however, received a serious blow about three years later from the House of Luxemburg. Its representative at the time was John, the blind King of Bohemia, whose father had been the Emperor Henry VII. Of John's two sons Charles was soon to succeed Lewis, while John of Moravia had already obtained the lordship of Tyrol in the right of his wife Margaret Maultasch. But the unhappiness of their childless marriage deepened in the exercise of embittered recrimination, till their domestic scandal became politically embarrassing. John, returning one day to his wife's castle to find its doors barred against him, placed his affairs in the hands of the Church, while Margaret naturally appealed to her overlord the Emperor. At the risk of sacrilege Lewis solved the problem by the novel expedient of declaring Margaret divorced and of remarrying her to his eldest son Lewis of Brandenburg. Both Ockham and Marsilius wrote tracts to facilitate the divorce.

The advantages accruing from this new marriage were more than outbalanced by the hostility of the House of Luxemburg. Charles set himself to ruin Lewis with the aid of the Church. By an abject submission to Clement VI and a judicious withdrawal from the field of Crecy, where his blind father fell fighting, Charles succeeded by Michael-

mas 1346 in winning over the Electors to his side. The election of Charles IV and the deposition of Lewis was, while the latter lived, formal rather than popular, and a year was to elapse before Charles could make good his title. There can be little doubt that the present tract was written shortly after this imperial crisis, for a memorial tablet in the Franciscan church at Munich, according to the records there, gives the date of Ockham's death as April 1347. By the following autumn Lewis and Bonagratia had followed him to the grave.

Such then in outline are the life and times of Ockham. Four works written by him—two at Oxford and two at Munich—have already been noticed. Shortly after his arrival in Germany he wrote his *Work of Ninety Days*, followed by his *Replies to Eight Questions* and his *Summary of the Errors of John XXII.* His great work, the *Dialogue*—about thirty times as long as this present tract—was completed in its present form by 1343, and a copy of it sent by Lewis to Albert II, the brother of his old rival Frederick. To these semi-theological works may be added, besides others unpublished, a whole series of tracts on physics, and two long essays on the sacrament of the altar. His best work was possibly his *Sum of Logic*, a treatise at once admirable and comprehensive.

The greater part of his writing was due to the silence enjoined by the Pope, who claimed the right to control opinion in the interests of faith and morals; and he was supported in his work by an Emperor who year by year, apart from his private quarrel, was condemned for harbouring a heretic so repugnant to the Holy See. We may well inquire, therefore, upon what principles the head of the Church based his actions, when he expected to prevent a prince from ruling and an author from writing. This coercive jurisdiction over all persons, lay and spiritual,

was no invention of John XXII: we must look far beyond his age for the several points of its origin. Though the life of the Church from its earliest days presents a picture of bewildering complexity, Damasus, Leo III, and Hildebrand may be cited as marking three convenient but distinctive stages in its path to power.

Of these three Damasus was most in debt to his predecessors. St. Paul, though never Pope, became through his vision at Damascus the first and nearest interpreter of Christian teaching after the Crucifixion. Guided too much by him alone, his followers have strangely interpreted his interpretation. We can mention but one point—his tinge of misogamy—a sorry thorn in the flesh of the clergy, when it developed later in settled times under the guise of celibacy into a rigid system of ecclesiastical discipline. How different in attitude was the first public act of his Master! None the less to his energies was due the widespread growth of Christianity; and in his later writings it would seem that he envisaged a catholic Church embracing the series of isolated communions which he had established. Such was the strength of its organization that within two centuries and a half from his death the Church could claim the professed allegiance of the Emperor and his court.

But Constantine and his efforts for the Church, so variously regretted, applauded, and discredited, affected its wealth and prospects rather than its internal character: what we recognize as its medieval essentials came later in the forty or fifty years between Sylvester and Damasus. The great struggle of Athanasius against world-wide opposition and the consequent establishment of Trinitarian doctrine—the work of Pachomius in practising the hermit life in Egypt with a success that attracted in the last days of Damasus converts among the members of the highest

Roman families—the heightened adoration of St. Mary, whose perpetual virginity, though still debated, advanced as a part of the faith almost side by side with the cult of monasticism—the veneration of saints made more real and lasting by the careful scholarship lavished by Damasus on the records and remains of the early martyrs, at a time when the vulgar populace of Rome had hardly turned from the worship of many gods—all these have their importance for every other century of the Church. But the greatest advance made was in the department of constitutional growth, when the Emperor was asked for and granted leave to the Church to try its clergy in its own courts. The reign of Henry II and his struggle against Becket illustrate sufficiently the enormous value of the gift. Thus equipped the Church was ready to face the long succession of problems created by the barbarian invaders, till the exercise of its powers while the empire sank from view left it at last without a rival in the politics of the West.

By the time of Leo III the achievements of courage and resource had been great indeed, but individual princes could still thwart the Church by a policy of disobedience or oppression. Some official champion and protector of the Church was required among the rulers of Christendom. In 800 Leo crowned Charles the Great in Rome and brought back the Roman Empire to the West. The effect of this momentous change was to correlate the secular government with the Church, often enough to the advantage of the protector. But a legal theory had been advanced, and a papal blessing bestowed: it only remained for the secular princes to learn one day that the blessing could be withheld. Though at first sight Leo seems small in comparison with Charles, the empire of the great man crumbled while the theory grew.

But the real struggle was still to come, for as yet the

Pope and his followers lacked both material and method for raising the papacy to the height of undisputed sovereignty. The feudal position of the bishops made them dependent on royal authority, while the torpor of the lower clergy unfitted them for any consciously concerted action. This twofold evil was gradually overcome by the movement for reform begun by the Benedictine monks at Cluny. Their enthusiasm spreading through every land taught the parish clergy by the force of example. As they advocated a High Church policy they strove to eliminate lay control at every point, by directing obedience to the Pope alone. Only a Cluniac pope was needed to complete the revolution.

It is well known how Hildebrand, as secretary to three popes, had learned the art of ruling before his own election in 1073 as Gregory VII made him, like a second Caesar, the master of his age. As with Julius of old, the Roman world was his through the vigour and devotion of another race which gave strength to the authority of its adopted leader. The same land which had sent its soldiers to overthrow the corruptions of the Senate now sent its clergy to triumph over the supineness of the Curia. Like Julius Hildebrand lived to humble every rival, and to fall at last in failure as complete as his success. At their end, as each lay dead, who could have prophesied that four centuries and a half would preserve the political structure of their invention, only to yield at length under the blows struck by the Germans beyond the Rhine?

But Hildebrand, as sincere as he was great, had an influence in death as far reaching as his work in life. Indeed, the period from Canossa to Wittenberg was dominated by the force of his personality, which drove men headlong in zeal either to build up or to tear down the fabric of his dream, the concept—dazzling in its grandeur—of a united Christendom, ruled from above by the Pope with full

powers not only to define the sin, but to punish the sinner. Whereas in general the legalizing of secular government through the blessing of Leo had made possible the claims of the Church to be sovereign, so now in particular the coercive jurisdiction obtained over the clergy in the time of Damasus was extended to include laymen in all such departments of life as seemed good to Hildebrand and his successors. With Europe reorganized under a celibate priesthood the executive power of the Pope was as wide as his policy. He had acquired for his task—the salvation of Christendom—a spiritual and political monopoly.

Historians have admitted that this grandiose scheme contained within itself the seeds of its own decay. Secular rulers could not long submit to papal encroachments which the development of canon law served only to increase. But the real danger came not from politics but from the people. Unlike the strong morality of the Cluniacs, which had grown in the pursuit of a voluntary ideal, the reinforced discipline of the Church steadily broke down. As a caste apart from the world the clergy were expected to lead a normal life in a position regarded on all sides as abnormal; and their failure in the south of France caused the spread of heretical movements like that of the Albigenses. As the Church, to its credit, had no machinery ready for its suppression, men like the father of Simon de Montfort, in the guise of crusaders, blotted out the civilization of the heretics with indescribable cruelty, while Innocent III and Philip Augustus watched from afar in great anxiety, the one for their salvation, the other for their lands. Even the voice of the Church was heard to encourage the indiscriminate slaughter of innocent and guilty alike, in the assurance that God would know his own. We cannot surmise what result would have attended the victory of a people so anti-clerical, artistic, and democratic as the Albigenses :

we merely gather that their failure was marked by the establishment of the inquisition in its wider aspect as an instrument of papal control.

But this revolt, carried to such daring extremities and crushed by such odious expedients, had enfeebled the faith, which Innocent would never have successfully re-established had not Dominic and Francis arrived to preach it for him. It is hard entirely to exonerate Innocent for his share in this tragedy. Although a man of remarkable insight (he sent Stephen Langton to Canterbury and doubted the wisdom of founding the Franciscan Order) he complained that he had misjudged the instruments of his policy. Yet he did nothing to moderate the activities of de Montfort. His fame rests rather on his assertion that to St. Peter it was given to rule not only the Church, but the whole world, so that the papacy as much exceeded the empire as the sun high in heaven outshone the pale borrower of its glory. With enemies less strong and resentful, and a character more versatile and agreeable, he completed the work of Hildebrand. Styling himself no longer Vicar of St. Peter, but Vicar of Christ or God, he raised the papacy to the highest limit of its power.

In strange contrast to the claims of the Pope stands the gentle humility of Francis. The saint had saved the Church, but only for a time, and by no means from another Innocent. At the end of the thirteenth century Boniface VIII attempted with fiery zeal to convert these theories into practice, by reducing the kings to a feudal dependence on himself; but he forgot, or failed to observe, that the civil lawyers in Paris were doing for their king what the canon law had done for the popes. The vehement resistance of Philip the Fair proved fatal. The sudden death of Boniface—his murder, if we will—shocked Europe and paralysed his successors into a reliance on France. For

seventy-two years Rome was deserted for Avignon, where the residence, or captivity, of Clement V was permitted to begin under the cloud of a disgraceful bargain with Philip. To the annoyance of England and Germany the Curia became French in personnel and policy. Thus the constructive age of the Church was over, and the great men like Hildebrand, Innocent, and Boniface give place to the obedient servants of a monarchy. It is remarkable that they preserved as much independence as they did, but their claims were all the louder during their real subservience.

The next Pope, John XXII, brings us once more to Ockham. The foregoing outline may, by way of explanation, serve as a background to the burden of his complaint against the popes of his time. In their political relations to the empire they had adopted and maintained a policy of interference and hostility.

It will be seen at a glance that John XXII was attempting to preserve his power in conformity with previous tradition. The theory of the two swords granted to the Church is a rationalizing of power already acquired in a long and painful struggle ; the gift of one of the swords to the emperor indicates that in the estimate of the Church the emperor was to be the executive of its secular policy. Thus the claim of the right to grant approbation of an imperial candidate is a simple extension of the idea, to enable the Pope to choose his own executive. To this a firm but dignified denial was given at Rhense and Frankfort in 1338. From whatever point of view the problem is approached the importance of Leo III is incontestable. It has already been suggested that the Church acknowledged this coronation of Charles the Great as the point from which its superiority over the empire emerged in at any rate the clearer vision of posterity. But the imperialists contended that if the transference of the empire was as

valid as the Church averred, their empire was at least the empire of Tiberius, to whom Christ had ordered the things that were Caesar's to be rendered; and they thus drew from history their argument to the effect that the empire was prior to the Church and needed no such approbation, as the papal party claimed was essential to its validity.

But Ockham goes beyond the technical interpretation of an act to the wider view of the case. The obvious intention of Leo III had been to harmonize the relations between spiritual and secular interests, and to make the empire the best ally of the Church. Instead, the popes had treated the empire as their worst enemy. They had humiliated or deposed its emperors, provoking wars to maintain their own ascendancy; and now, with Lewis of Bavaria under the ban of the Church, a usurper had been found to occupy the throne. Yet small indeed would have been the power and splendour of the Church without the wealth derived from princes, kings, and emperors. The lands and revenues had been their gift, but if the substance was used in the further exploitation of its benefactors, what peaceful settlement could be expected from an institution so blinded by avidity and ingratitude?

Assuredly the papacy misunderstood the nature of its functions. Founded to rule not for its own honour and advantage, but for the honour and advantage of its subjects, it had sunk through selfishness to the level of a tyranny. Rival claimants raised up by the Church had too often thrown the central government of the empire into confusion. Excommunication, now employed for political ends, placed the secular rulers at the mercy of the Church, while the interdict as an expedient, in lacking every kind of theoretical basis, could not be palliated or excused on any ground, not even on the plea of technical legality.

Ockham, however, does not rely on abstract reasoning alone to demonstrate how weak were the claims of Hildebrand, Innocent, and Urban. By examining with candour the consequences of their policy he allows the facts of the case to argue for him. As a result of this abuse of excommunication, he tells us, Catholics were condemned to the status of heretics, the innocent calumniated, good men driven from their benefices to make room for unworthy successors, lawful oaths relaxed, subjects relieved of their allegiance to their princes, and the binding links of human society loosened and destroyed. In the confusion of the rulers and the overthrow of the peoples Christianity lay low in strife and civil war. Amid disaster and bloodshed, roofless houses and fields deserted by their cultivators bore witness to the fact that on every side men were being exposed to dangers, all of which would have ceased had the papacy but refrained from hindering the control of the one prince over all the faithful. The saddest feature of it all was the ignorance of the princes themselves as to the truth of their position, for the Pope was dividing them one from another, only to draw them severally into direct subservience to himself. The political power of the papacy was a usurpation, and its temporal pretentions must inevitably create a perpetual source of war, to the ruin and abasement of Christendom.

Yet the view is false which would make Ockham either Erastian or anti-papal on questions of first principle. His defence of Lewis, based upon the conviction that the imperial cause was just, was accorded without surrender of his loyalty to the papacy. The mighty prince was the only salvation, as when Wyclif found a supporter in John of Gaunt or Luther in Frederick of Saxony; and his treachery could be fatal, as when Huss was deserted by Sigismund. The secular arm, first mentioned, it

would seem, in the time of Innocent III, was a subterfuge for placing, without the option of refusal, the unpleasant responsibilities of the Church on the shoulders of a king or emperor. In their struggle against a papacy armed with this power, small independent communities were doomed to failure. On the other hand the prince's favour was the reformer's opportunity.

Nor again can Ockham be classed with writers characterized by uncompromising hostility. With edification rather than destruction as his object, he insists with increasing emphasis on the sincerity of his intention, which was to help both the Pope and the faithful, by showing how far the powers of the one and the rights of the other extended; and his expectation, however foolish, of gratitude from both parties, at least discountenances the charge of malice. With the characteristic mentality of his race he accepted the world as he found it, and was prepared with patience to turn all things to the best advantage. Far different from this conservative attitude is the radicalism of Marsilius, to whose mind—fired with Latin enthusiasm—the world as it ought to be stood out in bolder relief than the world as it really is. Such an author will tend to display clarity of vision, impatience of expression, and completeness of conception; and he will impress us with the feeling that his brilliance, crystallized into a single volume, leaves but little room for development. But Ockham grows from volume to volume, and travels much farther for not knowing at first how far he intended to go. His painful efforts to fix his beliefs obscure his style, but illuminate his methods; and the principles unravelled in this process are all the more forceful for being based on reluctant conviction.

Such, then, is the general attitude of Ockham. His comments upon the Church's activities in the political world have in part been already discussed, so that it now

remains to consider the spiritual side of its work. His chief principle lies in this, that as the papacy as an institution must remain the object of criticism like every other institution, so the Pope like the rest of mankind must be judged according to his fruits. Isaiah had declared that to call a good man bad or a bad man good was an abomination in the eyes of God, so to call a good Pope bad or a bad Pope good was no less abominable. Thus convinced that ignorance was the danger, Ockham proceeds to direct upon the Pope and his actions that scrutiny which every Christian is permitted or encouraged to make.

The same conclusion is reached as before, that here too the papacy had become a tyranny. Its claim that all power in heaven and earth had been given to it was a fallacy, for there was no institution at any time so founded that it could boast of power without limit. On the contrary, limits had been placed to spiritual tyranny by the Christian Revelation itself. The Mosaic ceremonial and practice with all its intricacy and detail had been the despair of its earnest supporters, until the law of the Gospel had been established as the perfect law of liberty. But Ockham is not slow to drive his point even farther. If the Mosaic ceremonial was bad enough to require a Christian revelation, the papal provisions and restrictions were worse, for in pre-Christian days men did know what was expected of them, but now nothing short of total surrender was demanded. The limits fixed to spiritual authority had been ruthlessly transgressed by the popes; strictly enjoined neither to mingle in the affairs of this world, nor to imitate the rule of earthly kings, they had ousted Caesar from his rights and had set up a rival monarchy.

Their disobedience, clearly marked in their race for wealth and power, was the result of a misconception, deliberate or accidental, relating to the terms upon which

the Church had received its authority. In granting the headship of the Church to St. Peter (Ockham never doubts the fact of this gift), Christ bestowed neither a plenitude of power in things temporal, nor again in things spiritual. Had Christ granted such a plenitude of power in the temporal world He would have reduced all men to a condition of slavery: had He granted it in the spiritual world He would have nullified the laws of His own Gospel and would have introduced a tyranny far worse than the one He had come to mitigate.

It would be reasonable to expect the popes in advancing their Petrine claims to have preserved some point of contact with St. Peter, but they were as separated from him in thought as in time, for Peter had welcomed what they were effectively destroying. The law of the Gospel had been established to lighten the law of Moses—a burden which Peter himself had called too heavy to bear—but now his successors were making the new dispensation even more grievous than the old. Though Ockham has forgotten to quote the answer of Rehoboam to all Israel, he none the less cites the canon law which says that no man has the right to make an easy task difficult, for all such actions are intolerable. No objection could ever have been raised to the plenitude of power, had the Pope merely sought as head of the Church to establish peace by filling in the gaps caused by the breakdown of human affairs; but he had turned such opportunities for good too much to his own material advantage. Even further, he had interfered where no necessity could excuse him. The Petrine claim must be understood as having its exceptions, otherwise it would be equal to the power of God. In the world at large the employment of this claim in its most uncompromising sense was clear enough in its result, when it provoked the assertion that Christ had not come as a robber to destroy

the rights and possessions of the faithful. Far different in spirit was the last request to the first of the disciples, 'Feed my sheep'. Indeed, the popes had acted as if those words had been, 'Fleece them for their wool and slay them to eat their flesh'.

Working upon these lines Ockham discussed in detail the many ways in which limits had been placed to papal power. For support he relied on an extensive series of citations from canon law—a strange but significant procedure. To Marsilius the decretals of the popes, lacking, as he maintained, the force of positive law, could never be regarded as binding upon laymen: they were merely the regulations for the conduct of a separate and special society. Ockham, on the other hand, by according them a full measure of authority, showed that the popes had departed considerably from their original spirit and intention; and in this difference between intention and actuality is grounded his contention that the popes of Avignon were in error.

Without much doubt this countercharge of heresy adds little to our modern interest in Ockham. Two points, however, are worth mentioning. Shortly before his death in 1334 John XXII, nearly ninety, had declared in a sermon that the saints do not enjoy the Beatific Vision until the general resurrection. The acceptance of such a view would have been a serious blow to the Church by destroying the efficacy of prayers for the dead. An outburst of clerical opposition soon obliged John to withdraw and condemn as Pope what he had thought and preached as a theologian. Yet strangely enough a few years before on the borders of Austria and Bohemia many hundreds of people had perished by the faggot for expressing the same opinion.

The other instance is of greater importance. In 1322

John XXII definitely annulled the Bull of Nicholas III. Since its promulgation in 1279 the Holy See had retained the possession and the Franciscans the use of all property granted to the Order. The new Bull (or Bulls) of John XXII maintained that instead of becoming poorer for the expropriation the friars had increased in wealth; that in the daily consumption of bread, wine, and eggs ownership and use were inseparable; and finally that Christ had actually possessed all those things which were necessary for His earthly life. On Ockham's side it may be urged that even to-day legitimate subterfuge is practised by missionaries abroad who have the use but not the ownership of funds provided by their respective societies. On the other hand this Bull of 1322 is a model of good sense, and expresses no doubt the views of the average citizen of to-day. The amount of ingenuity and controversial passion expended upon a matter so apparently trifling will strike us as extraordinary now, but there is a danger in supposing that no real principle lay beneath the surface.

The whole matter hinged upon the interpretation of a life—the life of Christ. The wisdom or folly of St. Francis in his choice of views cannot alter the fact that poverty, chastity, and obedience had won for him within a few years an immediate success and loyal followers in every corner of Christendom. Inspired by a belief in Christ rather than by any beliefs about Him, Francis relied almost exclusively upon the simple story of the Gospel; and he was convinced that only by embracing a life of absolute poverty could he fulfil his purpose. He had no ambition to found an Order, and when he at last adopted that course he left a testament to the effect that the strict rule should remain unaltered. But those who did most to found the Order, Brother Elias and Cardinal Ugolino (Gregory XI), relaxed

the severity of the rule to suit the practical needs of the Order.

The vivid picture presented by St. Francis has never ceased to excite the wonder and astonishment of historians, but our object is to investigate the influence rather than the nature of his life. In a manner almost beyond the power of analysis the Order which he founded has reflected the genius of his personality. Hardly at any time has it settled with success to the ways of the world or adopted the policy of common sense. To find a reason for this is hard enough, but we may venture upon a surmise. The Order from its beginning has been subjected to interference, to the imposition of views not strictly its own—and the result in every case has been a moral disaster. Indeed, to all appearance, the Franciscans could not touch property without abandoning the other tenets of their founder's rule; and it may not be too much to say that the interference of John XXII bore ample fruit in the time of Wyclif and Chaucer, when the Order was celebrated for its wealth, disobedience, and debauchery.

But the Order in Ockham's day had not yet lost its nascent vitality. The insistence of the spirituals upon the importance of evangelical poverty will have a meaning by analogy, for the Franciscan Order was, writ small, what Christendom was, writ large. The latter, according to Ockham, had sunk under the weight of formalism through neglect of first principles, and he saw his own religious order being driven by the Pope down the same path to destruction.

The real point at issue, however, between Ockham and the papacy, is not so much his adherence to one view or another, but his denial—in at any rate this present tract—of the papal claim that the successor of St. Peter was ultimately the sole authority capable of interpreting Christian revelation.

In two instances he makes his position clear. In the first he refutes the belief that all men in agreeing will necessarily possess the truth against one dissentient; in the second, that the Pope himself has any claim to infallibility. In both cases he uses the same language, that forces outside himself—to which he refuses to yield—were trying to make his intellect prisoner to do their will. In the second instance he shows the absurdity of the claim to be sole interpreter, for if the Pope require all matters of doubt between Christians to be referred to him for his decision, how will two friends be expected to act who, while taking a walk, discuss between themselves some problem of religious doubt? To leave momentous decisions upon faith and morals to the arbitrary opinion of one man was a danger. Again, in a small unpublished tract, he tells us that the rules of Holy Scripture which prescribe our moral conduct become more and more intelligible to him as he sees them every day verified by experience.

These phrases display a glimpse of the real Ockham. Here in essence is the Protestant heresy, which, whatever it denies, certainly assumes the direct and independent approach of man to God. Are we then to believe that Ockham, embarking on the dangerous course of individualism, cast all authority to the winds? or that he was merely a confused thinker when he supports his arguments against the Church with the authority of the Church itself?

It will bring us nearer an answer to these questions if we consider them for a moment in connexion with the earlier stages of organized Christianity. The Church was the true successor of the Roman Empire which it absorbed and continued. It thus became both Christ and Caesar and united authority with power. When Europe was still young this combination was hardly to be avoided, but the employment of both forces was wielded in a remarkable

manner. As if conscious that it was to perpetuate an authority unqualified and undiminished throughout the ages, the Church steadily fostered the idea that entire dependence on itself was the first axiom of salvation. Its own indispensability was never absent from its line of thought. Now parental authority always and governmental authority often have led the individual or nation, after a period of enforced obedience, along the path of development from childhood to manhood and from villeinage to the ballot-box ; while the schoolmaster works with this end in view, that some day his pupils must stand by themselves. If, as has been said, the law of God is change and the order of the universe is development, it would be indeed surprising to find the spiritual world an exception. But the fact remains that the Church refused to relax one fraction of its authority over any of its subjects, even in the face of obvious superiority in spiritual or intellectual attainments.

The dark ages are no doubt responsible for much of this attitude, since in those days the superior clergy and the more cultured monks alone were educated, and the rest of mankind must have appeared to them as possessing a static rather than a dynamic nature. But the medieval period was, in contrast, full of growth and enlightenment. During a dozen little renaissances men learned to doubt, to think, and to criticize, until at last the more energetic and venturesome spirits became weary of their bargain of lifelong dependence on the Church in return for effective religious control. To such men the rules of conduct and belief could never appear the same when they had examined them, each for himself, in the light of new evidence, whether that happened to be Aristotle, or the Bible (without allegories), or personal experience. Ockham was by no means alone in his discontent.

He was merely more articulate or more sincere than the others, who either said nothing or recanted.

The intention behind the Hildebrandine system was good, but mistaken. Through its zeal every power and force of school or government was captured and converted into a weapon for enforcing universal morality. While the interests of society as a whole were given the first place, the individual was controlled too much from without and not enough from within. This defect is even more palpable in the world of politics, where men are actually better under the inferior laws of their own making than they ever can be under the effective machinery of a tyrant. Even if the system had succeeded it could only have been a second best, with virtue void of character and obedience at the expense of every lesson which only trial and failure can teach. Thus, though Ockham would have us admit that there must always be authority, he would not have it be, like the Mosaic Law, our schoolmaster for ever. Men must grow up, as in body, so in mind and spirit; and the Church which will prevent them from doing so will be guilty of serious error. The charm of the Middle Ages was never clear, till in their writings Sir Walter Scott and Chateaubriand cast upon them the glamour of romance. The ideal of Peter Pan is also romantic, but it would be disastrous to enforce it upon the world.

The inference that he was a mere child provokes Ockham to scorn. Indeed, nothing is so striking in his pages as his resentment at the silence imposed upon him, conscious as he was of his personal fitness to speak. But the duty was incumbent upon some one to give a note of warning to the Pope and faithful alike, if they were to avoid the terrible dangers with which they were all confronted. His quotation from the authors of the Church in support of his arguments against the Church is an example of his use of

authority. The Church had not always spoken from interested motives, and the best in its past history and ideas ought always to be brought forward to correct the extravagances of the present. If there is to be light there must be criticism. On the other hand, in dealing with the past the experiences of the present cannot be ignored, since the moral truth of the Scriptures is being daily verified by it. This can only mean that the value of the Scriptures is derived not merely from those who have preserved and expounded them, but also from the fact that we have only to test them for ourselves to prove their moral truth. This is in part the experimental science of Ockham. The mind judges good and bad actions by their results. That judgement has to be made and can only be of real value when made by the individual himself. For this reason Ockham set himself to withstand to the end the surrender of his intellect. He did not oppose authority as such, but the principles evolved in the process of his reasoning, and his failure to persuade his masters, obliged him in his last days at Munich to renounce not only his allegiance to the Order of St. Francis but also his communion with the Church. Yet the authority which he had attempted to set free was indeed a tyranny. We shall see that his feelings in leaving it were as melancholy as the fragment of Euripides, where the poet depicts the final wretchedness of a slave, reduced to the last of all losses, the right to mourn his servitude.

In all these problems the inherent difficulties of Pope and critic must not be forgotten. Circumstance, temperament, and fixed ideas all contributed their quota, and if they could be adequately understood would go far to explain, if not to excuse, the condition of the Church as it was about a year before the arrival of the Black Death. Hardly a Pope ascended the papal throne without promising reform and

left it with his promise fulfilled, so strong were the political friendships formed in that ill-fated union of ecclesiastical authority with civil power. Again, in temperament it would seem that the Latin mind with all its acumen for affairs shrank from investigating the fabric of religious imagery. It had seized upon the doctrine of the Trinity because it was an unfathomable mystery, and in mystery lay its strength and weakness. When religious belief has all the appeal of a fairy tale an organized priesthood may safely be trusted with the delicate business of definition. But the prayer that first, our illusion may be true, and secondly, that, if it be not, we may be spared the knowledge of it, has little attraction for the Teutonic mind, which so often loves to dissect spiritual experience and to turn it into a philosophy. On another side, however, Ockham is an enigma. The medieval writers knew their Bible better than we do, but they so frequently missed its meaning. Quotations were isolated until in their loneliness they gained a sanctity of their own, while to many the mere fact of the existence of a papacy was proof enough of the Petrine claim. Thus the tendency was to narrow rather than to broaden the issue, and to build a pyramid on a point. But in matters of interpretation there can be no room for individualism in religion, if it be once admitted that from the very beginning personal privilege was established, either for St. Peter or for any one else. Ockham goes so far in his questionings that without effort he might have gone farther still. He would have done so, had not his preconceptions of Biblical meanings been obscured by the very tradition which he was attempting to sift. Had he examined the Bible in the light of his own ideas he would have been obliged to interpret it in general terms, which in turn would have illustrated and strengthened his chief arguments. The contrast between his ideas and traditional exegesis would have been immediately apparent,

for does not the threefold denial of Peter suggest that in addressing him Christ was addressing a typical Christian; that the keys of Heaven are each man's heritage, if he will use them; that we all bind and loose ourselves by our own actions, each passing out into the next world being just what he is, a net residuum, when the restraints and pressure of authority have been removed? If this is not true, how comes it that all men may knock and it shall be opened to them? But nothing will so readily turn the knocking into a prerogative as an authority acting through a system of conscious repression, which makes it perilous for men to seek lest they should find.

But we must not detain the reader. While he sits in judgement on the Middle Ages as they pass under his review, let us call William of Ockham as chief witness, to prove him a philosopher of the light. He asks for a fair trial and he has been waiting five hundred and eighty years. In the opening words of his tract he has already sworn himself in. For the rest—'he is of age: let him speak for himself'.

# GVLIELMVS DE OCKHAM

## DE

# IMPERATORVM ET PONTIFICVM POTESTATE

VNIVERSIS Christi fidelibus praesentem tractatulum inspecturis frater Gulielmus de Okkham fidei veritatem et morum, prout gradui cuilibet congruit, omni gratia odio et timore postpositis, sine personarum acceptione intrepide defensare et sinceriter emulari.

2. Quoniam ut Christi veridica testantur eloquia, "Qui facit veritatem, venit ad lucem, ut manifestentur opera eius, quia in Deo sunt facta: et qui male agit, odit lucem, et non venit ad lucem, ut non arguantur opera eius"; ne subterfugiendo iudicium me male agere facto declarem et quod de iustitia non confidam ostendam, ex intimis scilicet cordis medullis ad lucem districti examinis et iudicii coram iudice competenti gestio pervenire, universis et singulis qui aliquid adversum me vellent proponere responsurus.

3. De omnibus enim quae feci scripsi vel dixi, postquam regulae beati Francisci me subieci, coram iudice minime recusando, cupio reddere rationem, quatenus cuncti fideles agnoscant, an aliquid valeat contra me probari propter quod inter philosophos lucis non debeam computari. Verum quia nemo est iudicis exercens offi-

12 exāmīs 20 īt' fi$^{os}$ 21 v$^{m}$

cium qui velit audire nisi adversarius manifestus et publicus hostis, coram quo non essem de persona securus, et quem nihilominus possum et debeo ex aliquibus causis iustissimis recusare, idcirco extra iudicium meam innocentiam false et nequiter diffamatam prout licite valeo defendendo, illa quae mihi nunc mendaciter imponuntur ad publicam deducere cupio notitionem, ut, an a Deo sint, omnes qui voluerint considerent orthodoxi.

4. Si quis autem inimicus philosophus et mendax et a veritate vacuus contra me mendaciis se armaret et de aliquo gravi, quod non divulgo quia conscius mihi non sum, malitiose cuperet me notare, illud tamquam sine probabilitate confictum flocci penderem penitus et pro nihilo reputarem: et tamen in hoc gloriosissimis viris et feminis me non omnino dissimilem gloriarer, quamvis sciam me eis nullatenus comparandum. Nam Ioseph, Naboth, Susannam, summum sacerdotem Omam, Damasum papam, Leonem summum pontificem, Athanasium, Hieronymum, Pelagiam virginem, et alias innumeras personas egregias, quidam sceleratissimi et sceleratissimae, aliter quam per falsas criminationes destruere desperantes, de horrendis criminibus infamare conati fuerunt, quia eorum nequitiis minime consenserunt.

5. Persecutioni igitur scienter me ingerens et eam fugere non intendens, quamvis forte si esset necesse vel aliud mihi videretur expediens, ut ipsam lenius ferre valerem, uterer licentia Christi dicentis in suis discipulis omnibus persecutionem patientibus propter iustitiam, "Cum vos persequuntur in civitate illa, fugite in aliam", fateor plane quod mihi veraciter potest imponi, quod ab obedientia ecclesiae Avinionicae et a societate

2 pu$^{c9}$ 4 jcc$^{i}$co 6 m$^{i}$ nō 10 $\overline{\text{fls}}$ 14 flecci
15 nichilo 16 $\overline{\text{feis}}$ 18 naphet 20 jeronimū 32 oboc$^{a}$

multitudinis fratrum minorum me subtraho ex nulla alia causa, nisi quia liquido mihi constat quod praefata ecclesia Avinionica errores et haereses manifestas tenet approbat pertinaciter et defendit, atque gravissimas et enormes iniurias et iniustitias in iura et libertates fidelium, magnorum et parvorum, laicorum et clericorum, in totius Christianitatis periculum, non desinit exercere: quibus omnibus multitudo fratrum minorum saltem facto favet et assentit et adhaeret. Praedictorum autem errorum quam plurimi in scripturis redacti ad diversas mundi plagas sub bulla sunt transmissi, ut tamquam credendi firmiter et tenendi omnium Christianorum auribus inculcentur, quos ultimo retentabo.

6. In primis enim, ne verbum Dei in ore meo alligatum existat, quaedam necessaria ad convincendas iniurias, quibus ecclesia Avinionica specialiter imperium Romanum et alia regna ac generaliter fideles molitur opprimere universos, breviter pertractare conabor. Vnde et saepe una ratione vel auctoritate, etiam aliud, forte illud quod sentio, gratia brevitatis communire studebo: non sic tamen, quin si in aliquo ex ignorantia tramitem reliquero veritatis ad ipsum revocari desiderem. Vnde rogo et obsecro ut quicumque legerit conscribenda, si me in aliquo errare putaverit, hoc mihi per rationem vel auctoritatem quam recipere teneor in scripturis dignetur ostendere, et ego, si non valuero rationabiliter respondere, me errasse fatebor. A veritate enim, non a multitudine, vinci nullatenus erubescam; sed mihi utilissimum aestimabo. Verumtamen hoc certum habeant universi, quod in his quae fidei sunt et scientiae plus me monebit una ratio evidens vel una auctoritas scripturae sacrae sane intelligenda, quam assertio totius

5 in *conieci* 13 r'tentebo 19 et alū 21 a$^{co}$
30 hiis scīe 32 ¯tellōa

universitatis mortalium, propter quos intellectum omnino debeo in eorum obsequium captivare: quamobrem allegationem multorum, quod non deberem multitudini contraire, haeresim sapere reputo manifestam, cum ut communiter multitudo erret et in sacris legatur eloquiis, quod non nunquam "unus solus omnes alios fugiebat".

7. Sane quae in hoc compendio perstringuntur, in aliis operibus, praesertim in quodam Dialogo, quem dudum incepi, qui habuerit, discussa inveniet exquisite.

## CAP. I

Si reges et principes ecclesiarumque praelatos ac Christianos ceteros non lateret, quod Christianitas continuis agitatur angustiis et pressure ac incessanter oneribus premitur importabilibus et iniustis, propter hoc quod nonnulli Romani pontifices vel pro Romanis pontificibus se gerentes terminos transgredientes antiquos ad aliena manus impias extenderunt et quod super omnes illos ecclesia Avinionica in Christianos nostris periculosis temporibus saevius debacchatur, puto quod plures eorum eidem ecclesiae Avinionicae non faverent, sed futuris casibus affectarent prudenter occurrere et ne incepta mala praevaleant praecavere.

2. Proinde qualiter ecclesia Avinionica terminos transgreditur antiquos, inquantum est mihi possibile, promere cupiens universis, qui sint termini antiqui, quos posuit Christus, quando constituit beatum Petrum principem apostolorum et cunctorum fidelium, ante omnia manifestare studebo: hoc enim liquido declarato, ut autumo, cetera illucescunt.

3. Tenendum est igitur in primis, quod Christus

1 ītem 3-4 9ahire 4 hēsim 5 cōi9 8 dyalogo
I. 24 sīt t'i 29 senend'

beatum Petrum constituens caput et principem universorum fidelium non dedit ei talem in temporalibus et spiritualibus plenitudinem potestatis, ut omnia de iure posset regulariter, quae neque legi divinae neque legi naturae refragant; sed potestati suae certos fines, quos non deberet transgredi, assignavit. Quod enim ei temporalibus talem non dedit plenitudinem potestatis auctoritate et ratione probatur. Dicit enim apostolus secunda ad Timotheum 2, "Nemo militans Deo implicat se negotiis saecularibus: ut ei placeat, cui se probavit." Quare cum beatus Petrus inter praecipuos milites Dei non fuerit minimus, summeque Deo placere studuerit, non debuit se negotiis saecularibus implicare: quare frustra talem recepisset a Christo in temporalibus plenitudinem potestatis.

4. Rursum in temporalibus potestatis plenitudo potestatem et dominationem regum gentium comprehendit. Potestatem ergo et dominationem regum gentium Christus beato Petro ceterisque apostolis interdixit, ut patet Lucae 22, Marci 10 et Matthaei 20, ubi legitur Christus dixisse haec verba: "Scitis quia principes gentium dominantur eorum: et qui maiores sunt, potestatem exercent in eos: non ita erit inter vos, sed quicumque voluerit inter vos maior fieri erit vester minister." Ergo Christus multo magis interdixit apostolis praedictam in temporalibus plenitudinem potestatis.

5. Amplius nullus dominus temporalis super servum suum, scientissime sumpto vocabulo servi, maiorem obtinet potestatem de iure quam ut omnia possit ei imponere, quae nec legi divinae nec legi naturae refragant: quare si Christus talem dedisset beato Petro in temporalibus plenitudinem potestatis super cunctos fideles,

1 capd' 5 rr̃nt. s3 poti 8 p̃ 9 2ª ad thimo ii 29 optin3

omnes fecisset servos ipsius, quod libertati evangelicae legis, sicut inferius lucide apparebit, obviat manifeste. Sicut autem Christus talem non dederit beato Petro in temporalibus plenitudinem potestatis, ita etiam neque in spiritualibus concessit sibi huiusmodi plenitudinem potestatis. Nam sicut patebit inferius evidenter, lex evangelica est minoris servitutis quam fuit lex Mosaica, quod beatus Petrus, ut legitur Actuum 15, dicit esse "iugum quod neque ipse neque patres sui potuerunt portare". Si autem beatus Petrus praefatam in spiritualibus habuisset a Christo plenitudinem potestatis, habuisset a Christo potestatem imponendi fidelibus plura onera et graviora, quantum ad cultum divinum et quantum ad vigilias ieiunia et cetera spiritualia, quam fuerunt onera veteris legis. Ergo lex evangelica maioris esset servitutis quam lex Mosaica. Cum itaque beatus Petrus talem etiam in spiritualibus non recepit a Christo plenitudinem potestatis, perspiciendum est, quod Christus, constituens beatum Petrum super omnes fideles, certos fines posuit, quos ei transgredi non licebat.

## CAP. II

Viso, quod beatus Petrus nec in temporalibus nec in spiritualibus talem habuit plenitudinem potestatis, quod omnia posset quae nec lege divina nec lege naturae existunt prohibita, prout etiam ex dicendis amplius apparebit: videndum est, qui sunt fines quos beato Petro transgredi non licebat, et infra quos potestatem sibi concessam a Christo licuit exercere. Et quia hoc scire non est aliud quam scire ad quae principatus papalis se extendit et ad quae se non extendit, immo haec de principatu papali duxi videnda.

1 ī0ī9 2 sd 5 hī9 12 plr̄ā 18 ꝑspicīm

2. In primis autem puto tenendum, quod principatus papalis institutus a Christo nequaquam regulariter ad temporalia se extendit et saecularia negotia, quod non solum per verba apostoli, secunda ad Timotheum 2, superius allegata, sed etiam per beatum Petrum probatur aperte, qui, ut legitur xi quaestione i 'te quidem', loquens beato Clementi papae ait, "Te quidem oportet irreprehensibiliter vivere, et summo studio niti, ut omnes vitae huius occupationes abicias: ne fideiussor existas, ne advocatus litium fias, neve in aliqua occupatione prorsus inveniaris mundani negotii occasione perplexus. Neque enim iudicem neque cognitorem saecularium negotiorum hodie te ordinare vult Christus." Huic alludit beatus Bernardus, qui Eugenio papae de potestate papali scribens ait: "In criminibus, non est in possessionibus potestas vestra. Propter illa siquidem, et non propter has, accepistis claves regni caelorum, praevaricatores utique exclusuri, non possessores."

3. Papa igitur, si ex casu necessitatis se de temporalibus intromittat, falcem suam in messem noscitur mittere alienam, nisi super hoc ab imperatore vel alio homine receperit potestatem. Et immo, quod in hoc fecerit, viribus non subsistit, quia "ea quae fiunt a iudice, si ad eius non spectant officium, viribus non subsistunt": extra de regulis iuris 'ea quae' libro vi.

## CAP. III

Sicvt autem principatus papalis nequaquam ad negotia saecularia se extendit, sic etiam ad supererogatoria minime se extendit, quod ex praecedentibus probatur. Nam si principatus papalis ad supererogatoria regulariter se extenderet, lex evangelica esset lex maioris

II. 1 te$^{d'}$ 9 h9 III. 28 p'ce$^{b\bar{3}}$ p$^{\tilde{}}$ 29 r$\mathring{\text{r}}$t'

servitutis quam fuit lex Mosaica, quia posset papa pluribus et gravioribus oneribus quantum ad ieiunia vigilias virginitatem et continentiam aliaque supererogatoria premere Christianos, quam pressi fuerunt Iudaei in veteri lege: quod doctrinae apostolicae refragat aperte, cum beatus Iacobus in canonica sua capitulo 1 dicat eam esse "legem perfectam libertatis". Cui alludit apostolus ad Galatos 5 dicens, "Vos in libertatem vocati estis, fratres; tantum ne libertatem in occasionem detis carnis", id est, tantum ne putetis habere libertatem committendi peccata, "quae sunt opera carnis", sicut idem testatur apostolus.

2. Hinc beatus Augustinus ad inquisitiones Ianuarii, et ponitur distinctione xii 'omnia', reprehendit illos, qui contra libertatem evangelicae religionis ipsam pluribus oneribus quam fuerunt onera veteris legis premere moliuntur, dicens—

3. "Quamvis enim neque hoc inveniri possit, quomodo contra fidem sint," scilicet quae in quibusdam ecclesiis observantur, "ipsam tamen religionem, quam paucissimis celebrationum sacramentis misericordia Dei voluit esse liberam, servilibus oneribus premunt, adeo ut tollerabilior sit conditio Iudaeorum, qui etiam si tempus liberationis non cognoverint, legalibus tamen sacramentis, non humanis praesumptionibus subiciuntur."

4. Non igitur papalis principatus ad supererogatoria se extendit, quod ex verbis beati Ambrosii colligitur manifeste, qui ut legitur xxxii quaestione i 'integritas', de virginitate dicit, quod "suaderi potest, imperari non potest; res magis est voti quam praecepti". Quare ratione consimili alia supererogatoria licet valeant sua-

1 mosayca 7 ꝑfcē 8 gāl·e·d·vosīlibīate
16 ve. 21 celebªcoē īmīa 23 tp̄t 24 9gºu'itꝯ
28 xxii 29-30 nō pt nc pt r's magꝯ eē

deri, tamen imperari non possunt: quamobrem potestas papalis ad huiusmodi nullatenus se extendit.

## CAP. IV

Ex praemissis colligitur, quod principatus papalis nequaquam ad iura et libertates aliorum regulariter se extendit, ut illa tollere valeat vel turbare, praesertim imperatorum regum principum et aliorum laicorum, quia huiusmodi iura et libertates ut in pluribus inter saecularia computantur, ad quae principatus papalis ut ostensum est prius nequaquam regulariter se extendit.

2. Hinc dicit beatus Ambrosius super epistolam ad Titum: "Religio Christiana neminem privat iure suo"; quare papa non potest aliquos privare iure suo, praesertim quod non habuit ab ipso sed a Deo, vel a natura vel alio homine, et eadem ratione non potest aliquos privare libertatibus suis a Deo et a natura eis concessis.

3. Amplius Christus principatus papalis institutor opus consummans, quod dedit sibi pater ut faceret, neminem privavit iuribus et rebus suis, teste beato Augustino, qui super Iohannem in persona Christi loquens ait, "Audite, Iudaei et gentes; audi, circumcisio; audi, praeputium; audite, omnia regna terrae. Non impedio dominationem vestram in hoc mundo, quia 'regnum meum non est de hoc mundo': nolite metuere metu vanissimo, quo Herodes ille maior, cum Christus natus nuntiaretur, expavit et tot infantes occidit"; timens scilicet si Christus natus veniret, ut ipsum regno suo privaret.

4. Cui alludit beatus Leo papa in sermone de Epiphania dicens, "Herodes audiens Iudaeorum principem

natum, successorem suspicatus expavit"; ne scilicet privaretur regno: et paulum post, "O caeca aemulationis impietas, quae perturbandum putas divinum tuo furore consilium. Dominus mundi (scilicet secundum dominationem) temporale non quaerit regnum (secundum humilitatem videlicet), qui praestat aeternum." Et Chrysostomus ait, "Christus non privavit mundum a sua providentia et praelatione." Et ecclesia de Christo canit, "Hostis Herodes impie, Christum", et cetera.

5. Ex quibus aliisque quam plurimis probatur aperte, quod Christus non venit privare mundum rebus et iuribus suis, quare vicarius suus, qui minor est eo et nullatenus in potestate aequalis, non habet potestatem privandi alios rebus et iuribus suis: et ita principatus papalis ad res iura et libertates aliorum nullatenus se extendit.

## CAP. V

Per praedicta satis clare constat quod quamvis verba Christi ad beatum Petrum Matthaei 16 "quodcumque ligaveris super terram", et cetera, generaliter sint prolata: non tamen generaliter sine omni exceptione, sed cum suis exceptionibus debent intelligi. Nec mirum, "nam saepe verbum generale restringitur", ut notat glossa: extra de appellationibus super capitulo 'sua nobis', et per exempla plurima etiam divinae scripturae in aliis operibus declaratur. Quae autem a potestate papae excipi debeant, patet ex praedictis, quia excipi debent regulariter negotia saecularia inter quae iura et libertates aliorum saltem ut in pluribus continentur. Supererogatoria etiam excipi debent, quae licet papa

2 pū post. 6 prāt 7 Criso⁹ 14 ē̃l V. 30 q̃l3

etiam Christianis valeat suadere, sine culpa tamen et absque causa rationabili et manifesta, scilicet extra casum necessitatis et utilitatis quae necessitati valeat comparari, nulli Christiano, qui ad huiusmodi nullatenus se ipsum obligavit, valet sub distinctione praecepti iniungere : et si iniunxerit alius tunc nequaquam ei astringitur obedire, quia talia iniungere ad eius non pertinet potestatem. Et immo si contra aliquem nolentem in huiusmodi obedire faceret quemcumque processum vel ferret sententiam, huiusmodi processus et sententia, tamquam a non iudice in huiusmodi casu factus et lata esset, ipso iure nullus et nulla esset.

2. Praeter praemissa a potestate principatus papalis frivola inutilia et indifferentia sunt excepta, quia in talibus nullus ei obedire tenetur, nisi forte propter reverentiam, quae exhibenda est ei in aliquo indifferenter non oneroso, ei debeat inferior obedire, quemadmodum in multis casibus illi qui sunt inferioris gradus non debent illis qui sunt superioris gradus resistere, quamvis etiam eis minime sint subiecti. Non enim deceret fratrem minorem resistere episcopo vel archiepiscopo dicenti sibi, "Leva hanc paleam", vel, "Tene hunc baculum", vel aliquid simile, quod sibi non existeret inhonestum neque grave.

3. Adhuc autem a potestate principatus papalis semper excipi debet modus nimis onerosus et gravis in ordinando corrigendo statuendo et faciendo illa quae ad papalem pertinent potestatem, ne scilicet illa in quibus papae Christiani obedire tenentur, quae possent et deberent leviter fieri, faciat nimis difficilia vel alias modum excedat. Nam cum dominus temporalis eadem fide tenetur subdito, qua subditus tenetur domino suo, xxii quaestione ultima 'de forma' et distinctione xcv

1 valȝ 4 q̂ 5 vȝ 33 lxxxxv

'esto', multo magis papa eadem fide tenetur sibi subiectis, qua ipsi tenentur sibi. Sed inter cetera quae tenetur fidelis domino suo et Christianus, est "ne illud bonum quod dominus (vel papa) facere leviter poterat, faciat ei difficile": xxii quaestione ultima 'de forma'. Ergo similiter papa illud quod a sibi subiecto leviter fieri posset et deberet, non debet ei facere difficile seu onerosum aut grave: quare non habet potestatem a Christo exercendi modum in his quae ad eius pertinent potestatem.

4. Quod etiam ex libertate legis evangelicae probatur aperte: si enim papa virtute potestatis datae sibi a Christo posset in his quae ad ipsum spectant ea quae sunt facilia reddere difficilia sibi subiectis, posset eos tali modo gravare magis quam si ad observandam legem veterem tenerentur: et ita posset papa Christianos maiori premere servitute quam fuerit servitus veteris legis, quod haereticum censeo iudicandum.

## CAP. VI

Ex his concluditur quod principatus papalis est propter utilitatem et commodum subditorum institutus, et non propter honorem aut gloriam vel utilitatem seu temporale commodum principantis: ita ut principatus non dominativus sed ministrativus debeat merito appellari.

2. Ille enim principatus, qui sollicitam curam debet habere de sibi subiectis, quos non potest de iure privare rebus iuribus et libertatibus, licet valeat ab eis necessitates suas exigere quemadmodum mercenarius et stipendiarius possunt ab eis quibus serviunt necessitates suas exigere, noscitur institutus propter utilitatem et commodum subditorum, non propter honorem vel com-

6 si$^{ter}$ 15 legis ve. 17-18 ve. le. VI. 22 comod'

modum principantis, et immo non dominativus sed ministrativus merito est vocandus. Cum igitur constet, quod papa, cui dixit Christus in beato Petro, "Pasce oves meas", de fidelibus sollicitam curam gerere teneatur et iuxta praedicta sine culpa et absque causa rationabili et manifesta iura libertates et res sibi subiectorum in quantum valeat ab eis suas necessitates exigere, relinquitur, quod principatus papalis institutus est propter utilitatem subiectorum, et non propter utilitatem propriam vel honorem, et per consequens non dominativus sed ministrativus est digne vocandus; in quo, sicut post dicetur, maxime assimilatur, plus quam aliquis principatus saecularis institutus de facto, nobilissimo modo principatus regalis, qui forsitan nunquam nec a Deo nec ab hominibus fuit super homines institutus; et in quo superat dignitate omnes alios principatus.

## CAP. VII

Sane, quod immediate ex praescriptis sequitur, innumera toti Christianitati utilia, propter quorum ignorantiam imperatores reges principes, praelati ecclesiae et populi Christiani papam permiserunt impune sibi quam plurima illicite usurpare, in dispendium et praeiudicium iurum et libertatum cunctorum mortalium, propter quod divinus diminuitur cultus per excommunicationes iniquas et illicita interdicta, quae ipso iure divino nullae sunt et nulla, quia in casu, quo papa non est iudex, crebro ponuntur et feruntur, et damnantur catholici, et haeretici appellantur, diffamantur insontes, et impii honorantur, digni ab honoribus ecclesiasticis beneficiis

12 s$^{d}$ p9 16 oēs. VII. 17 S$^{ane}$ ex *conieci*
19 r'ges ¶ a$^{os}$ p'nci$^{t9}$ p'ncipes 20 ppm̊ 22 iurīū
26 dāpn̊t̃

et officiis repelluntur, et promoventur indigni, inferiores ecclesiae importabilibus affliguntur oneribus, immo in servitutem contra libertatem ecclesiasticam eis concessam divinitus et humanitus rediguntur, iuramenta licita relaxantur, subditi principum a fidelitate et debitis obsequiis absolvuntur, et societatis ac fidelitatis humanae vincula dirumpuntur, et ipsi principes confunduntur, et populi destruuntur, seminantur discordiae et Christianitas bellis prosternitur intestinis, exercentur clades et strages, civitates incenduntur et villae, domus ruunt et habitatores et cultores deserunt regiones, ab infidelibus impugnantur, fideles quotidie minuuntur, et omnes diversis periculis exponuntur, quae omnia vel graviora cessarent, si sedem apostolicam occupantes unum principem non impedirent potenter omnibus fidelibus dominari. Proinde suprascripta aliquantulum prolixius quam alia, quamquam pro exigentia materiae breviter, auctoritatibus et rationibus fulcire studebo.

2. Quod enim principatus papalis sit propter bonum subditorum, non propter proprium honorem vel commodum, institutus a Christo, et immo principatus non dominativus seu despoticus sed ministrativus debeat appellari, ut quantum est ex ordinatione Christi tantum ad illa se extendat quae necessaria sunt ad salutem animarum et ad regimen et gubernationem fidelium, salvis iuribus et libertatibus aliorum, ex verbis Christi colligitur evidenter, qui in Petro et ceteris apostolis, ut tactum est supra, dixit successoribus beati Petri, ut legitur Lucae 22, "Reges gentium dominantur eorum; et qui potestatem habent super eos, benefici vocantur. Vos autem non sic: sed qui maior est in vobis, fiat sicut minor: et qui praecessor est, sicut ministrator. Nam quis maior est, qui recumbit, an qui ministrat?

2 y° ī 12 cotie 22 dispotio 32 iunior

Nonne qui recumbit? Ego autem in medio vestrum sum sicut qui ministrat": et eandem sententiam recitat Matthaeus 20 capitulo et Marcus 10 capitulo. Quibus verbis Christus non omnem principatum seu praelationem interdixit apostolis, sicut aliqui male intelligentes affirmant, tum quia seipsum ponat in exemplum qui fuit verus praelatus ipsorum et super ipsos etiam in quantum homo veram habens praelationem, tum quia ipse aperte insinuat quod alias fuit inter eos maior et praecessor et quod alias poterat inter eos esse primus licite, sicut ex verbis quae recitant Matthaeus et Marcus datur intelligi. Sed interdixit eis principatum dominantium, qui vocabulo sumpto ex Graeco vocatur despoticus, qui ut in Politicis traditur est respectu servorum, qualem non dedit Christus apostolis, sed eis principatum ministrativum, qui est respectu liberorum et multo nobilior et dignitate maior quam sit principatus dominativus, licet non sit tantus extentione potestatis, quia pauciora potest imperare principans ministrative sibi subiectis quam principans dominative servis suis; sicut principatus respectu hominum est multo nobilior quam principatus bestiarum, quia ut dixit Aristoteles in Politicis, "Tanto est nobilior principatus quanto est respectu nobiliorum subiectorum," et tamen maiorem potestatem habet dominus super bestias suas, quas etiam licite valeat mactare, quam super servos suos et ancillas.

3. Dixit igitur Christus, "Reges gentium dominantur eorum", id est, reges gentium dominantur eis tamquam servis, non tamquam pure liberis. Nullus enim principatus pure regalis, qui est respectu liberorum, non servorum, inter gentes extitit institutus, sed mixtus fuit cum dominativo seu despotico principatu, sicut etiam princi-

3 matheo. xx c° + m^r. × c° 9 a^is 10 ę^e eos e^e
13 despositus 14 r^a 32 dispo^to

patus regalis institutus a Deo aliquid habuit de principatu dominativo. Nam, ut patet primo Regum 8, filii Israel in multis facti fuerunt servi regis, quem petebant a Deo, propter hoc quod mala intentione talem regem petebant, quia Deo non placuit quod talem principem postularent.

4. Talem autem principatum interdixit Christus apostolis dicens, "Vos autem non sic": hoc est, vos non debetis sicut reges gentium dominari vobis subiectis tamquam servis, quia debetis eos tractare tamquam liberos, non ut servos: id est, non debetis eis principari propter utilitatem vestram temporalem vel gloriam, sed propter utilitatem ipsorum, ut vere a serviendo et ministrando, id est, procurando utilitatem vobis subiectorum, vere servi et ministri dici valeatis eorum, et vester principatus non dominativus sed ministrativus debeat nuncupari.

5. Hinc beatus Petrus, prius quam super fideles plures instituti fuere praelati, cunctos praelatos etiam successores suos informans scripsit, dicens, "Pascite qui est in vobis gregem Dei, providentes non coacte sed spontanee secundum Deum, neque turpis lucri gratia, sed voluntarie: neque ut dominantes in clero": et si non debent dominari in clero, multo minus in populo.

6. Ad istum intelligendum allegat beatus Bernardus verba praemissa Christi et beati Petri, informans Eugenium papam de officio et potestate papali, dicens libro 2 de consideratione, ad eundem Eugenium: "Nec locus est otio, ubi sedula urget sollicitudo omnium ecclesiarum. Nam quid aliud dimisit tibi sanctus apostolus? 'Quod habeo, hoc tibi do.' Quid illud? Vnum scio: non est aurum neque argentum, cum ipse dicat, 'Argentum et aurum non est mihi.' Si habere contingat, utere

2 r'g' viii 18 eis dicēs 19 gr'gē dn̄ī 24 ītem 28 ōcō

non pro libitu, sed pro tempore. Sic eris utens illis, quasi non utens. Ipsa quidem, quantum ad animi bonum spectat, nec bona sunt nec mala: usus tamen horum bonus, abusio mala, sollicitudo peior, quaestus turpior. Esto ut alia quacumque ratione haec tibi vendices: sed non apostolico iure. Nec enim ille tibi dare quod non habuit potuit: sed quod habuit hoc dedit, sollicitudinem, ut dixi, super ecclesias. Numquid dominationem? Audi ipsum: 'Non dominantes', ait, 'in clero, sed forma facti gregis.' Et ne dictum sola humilitate putes, non etiam veritate, vox domini in evangelio est: 'Reges gentium dominantur eorum: et qui potestatem habent super eos, benefici vocantur': et infert: 'Vos autem non sic.' Planum est: apostolis interdicitur dominatus. I igitur tu, et tibi usurpare aude aut dominans apostolatum aut apostolicus dominatum. Plane ab utroque prohiberis. Si utrumque simul habere voles, perdes utrumque. Alioquin non te exceptum illorum numero putes, de quibus queritur Deus sic: 'Ipsi regnaverunt, et non ex me; principes extiterunt et ego non cognovi eos.' Iam si regnare sine Deo iuvat, habes gloriam, sed non apud Deum.

7. "At si interdictum habemus, audiamus edictum: 'Qui maior est vestrum,' ait, 'fiat sicut minor; et qui praecessor est, sicut qui ministrat.' Forma apostolica haec est: dominatio interdicitur, indicitur ministratio": id est, principatus dominativus qui est respectu servorum interdicitur, sed principatus ministrativus qui est respectu liberorum indicitur. Vnde de principatu ministrativo, quem Bernardus ministrationem appellat, idem Bernardus immediate subiungit: "Quae (scilicet mini-

2 ·q· nō 15 dñat9. ℔ tu audes āū 16 dñat9 aplātū
a$^{t}$ aplāt9 17 ut$^{m}_{3}$ sīl 19 dš. s$^{o}$ 21 iā si si vivat
24 iunior 29–30 dñatiō mīst$^{a}$tiō

stratio) commendatur ipsius exemplo legislatoris, qui secutus adiungit, 'Ego autem in medio vestrum sum, tamquam qui ministrat.'"

8. Adhuc quod talis sit principatus apostolicus declarat beatus Bernardus libro 3 de consideratione asserens manifeste dicens quod non est dominativus. "'Nimis confortatus est principatus eorum': 'Constituti sunt principes super omnem terram.' Eis tu successisti in haereditatem. Ita tu haeres et orbis haereditas. At quatenus haec portio te contingat aut contigerit illos, illud sobria consideratione pensandum. Non enim per omnem ut reor modum sed sane quodam tenus (ut mihi videtur) dispensatio tibi super illum credita est, non data possessio." Et qualiter hoc possit fieri declarat exemplo postea dicens: "Numquid non et villa villico et parvulus dominus subiectus est paedagogo? nec tamen villae ille nec is domini sui dominus est. Ita et tu praesis, ut consulas, ut percures, ut servias, ut provideas. Praesis ut prosis; praesis ut fidelis servus et prudens, quem constituit dominus super familiam suam. Ad quid? 'Vt des illis escam in tempore'; hoc est, ut dispenses, non imperes (scilicet ut non imperes illa quae non sunt necessaria). Fac hoc, et dominari ne affectes hominibus homo, ut non dominetur tui omnis iniustitia."

9. Ex quibus verbis liquido constat quod papa propter utilitatem fidelium principatur eisdem tamquam liberis, ut sicut per monitionem papae non personae suae provideatur, sed ecclesiae.

10. Hinc Christus praeficiens ovibus suis beatum Petrum non dixit ei, "Tonde oves meas et fac tibi vestes de lanis earum'; nec dixit, "Mulge oves meas

12 ·n· oēm 13 vⁱ mⁱ viᷤ dispēcō cⁱ sr̄ iᵐ 15 p9ea
28 ꝑmocom̄

et bibe, vel comede lac earum"; nec dixit, "Macta oves meas et manduca carnes earum"; sed dixit, "Pasce oves meas", id est, serva rege custodi et servi eis ad honorem meum et utilitatem ipsarum.

11. Papa enim in beato Petro solummodo accepit potestatem a Christo ad aedificationem fidelium et non ad destructionem ipsorum, teste apostolo secunda ad Corinthios capitulo 10 et ultimo, qui non solum pro se, sed etiam pro aliis apostolis, dicit sibi potestatem datam a Deo, "non in destructionem, sed in aedificationem." Hinc dicit beatus Augustinus, ut habetur viii quaestione i 'qui episcopatum', "'Qui episcopatum', ait, 'desiderat, bonum opus desiderat', exponere voluit (scilicet apostolis) quid sit episcopatus, quia nomen est operis, non honoris. Graecum est enim, atque inde ductum est vocabulum, quod ille, qui praeficitur, superintendit, curam eorum scilicet gerens; scopos quippe intentio est. Ergo episcopos, si velimus, latine possumus superintendentes dicere, ut intelligat non se esse episcopum qui praeesse dilexerit, non prodesse."

12. Hinc Chrysostomus, super illud Matthaei, 'Reges gentium' et cetera, ait, "Principes mundi immo solo fiunt ut dominentur minoribus et eos servituti subiciant, et usque ad mortem eis utantur ad suam utilitatem et gloriam, principes autem ecclesiae fiunt ut serviant minoribus et ministrent eis quaecumque acceperunt a Christo ut suas utilitates negligant et illorum procurent."

13. Hinc Origines super eadem verba ait, "'Scitis quia principes gentium dominantur eorum', id est, non contenti tantum regere suos subditos, violenter eis

5 *post* accepit *signum* ∧ *scriptum est* 14 nⁿ est 15 dc̄m 17 ·s· *inter* eorum *et* gerens *supra scriptum est* 19 se *omisit MS.* 21 cⁱso⁹ 22–23 sō|ut 31 s3 *post* subditos *addidit secunda manus*

dominari nituntur. Inter vos autem qui estis mei, non erunt haec. Quoniam sicut omnia temporalia in necessitate sunt posita, spiritualia autem in voluntate, sic et qui principes sunt spirituales praelati, principatus eorum in dilectione debet esse positus, non in timore": id est, praelati niti debent diligi a sibi subiectis procurando utilitatem ipsorum, non timeri tollendo iura libertates et res eorum, nisi in quantum pro suis necessitatibus indigent rebus eorundem, ut sic accipere res eorum necessitatis sit, sed servire spiritualiter ipsis sit voluntatis.

14. Hinc Gratianus, ut legitur viii quaestione i subscripto 'his omnibus', ait, "Sacris canonibus institutum est, ne quis sibi sui officii quaerat successorem, sed populi electione quaeratur qui illorum utilitati digne deserviat, qui illorum utilitatem, non sua lucra quaerat, qui Christo semen velit suscitare, non sibi divitias congregare. Quod qui facere contempserit, iure ab ecclesia repudiatur."

15. Haec sententia ex quam plurimis canonibus sanctorum patrum colligitur evidenter, sicut patet viii quaestione i capitulo 'olim' et capitulo 'in scripturis' et capitulo 'Clemens' et capitulo 'in ecclesia' et in aliis locis quam pluribus.

## CAP. VIII

Nvnc superest videre ad quanta se extendat principatus papalis: circa quod videtur mihi dicendum, quod omnia possibilia principi et rectori mortali, quae sunt necessaria ad procurandam animarum salutem aeternam et ad regimen et gubernationem fidelium, ad papalem

3 aũ ṇō ṣ° ī 12–13 ·q·i ƒ hiis 17 sibi *omisit MS.*
21 pr̃m s *post* p3 *deletum est*

pertinent principatum: ita tamen quod modus nullatenus excedatur enormiter, salvis rebus iuribus et libertatibus aliorum, nisi quod potest a sibi subiectis suas necessitates exigere. Nisi enim omnia talia modo praedicto pertinerent ad apostolicum principatum, non esset per Christum sufficienter ecclesiae suae provisum, sed in necessariis sibi deficeret, cum sit necessarium ecclesiae, ut omnia sibi praefato modo necessaria per superiorem valeant expediri. Aliter enim non essent uni gubernatori sufficientem habenti auctoritatem subiecta, sed pro ea posset dici illud Salomonis, "Vbi non est gubernator, populus corruet", nec modo esset verificatum illud Christi, Iohannis 10, "Fiet unum ovile et unus pastor".

## CAP. IX

Sed quaeret aliquis, quae sunt iura et libertates aliorum, quae a potestate apostolici principatus regulariter eximuntur.

2. Hic responditur, quod ad illa iura et libertates spectant omnia iura et libertates infidelium, quibus ante incarnationem Christi et post licite et iuste gaudebant; quae a fidelibus ipsis invitis tolli non debent, cum fideles non debeant nec debuerint esse deterioris conditionis quam infideles seu fuerant ante seu post incarnationem Christi, propter hoc quod legi perfectae libertatis scilicet evangelicae sint subiecti. Quod etiam per auctoritates Ambrosii Augustini Leonis supra allegatas et alias consimiles aperte probatur.

3. Ex quo concluditur, quod ad iura et libertates specialiter laicorum pertinent omnia illa, quae ad dis-

IX. 15 set 23 ān sū p⁹ 29 laycorum

positionem temporalium et negotiorum saecularium requiruntur, quia omnia talia ad dispositionem infidelium pertinebant et ad haec spectant. Quod etiam testatur beatus Petrus, quia, ut legitur xi quaestione i 'sicut enim', ait: "Sicut enim impietatis crimen est tibi, o Clemens, neglectis verbi Dei studiis sollicitudines suscipere saeculares, ita unicuique laicorum peccatum est, nisi invicem sibi etiam in his, quae ad communis usum vitae pertinent, operam fideliter dent. Te vero facere securum ex his, quibus non debes instare, omnes communiter elaborent."

4. Hinc idem apostolus, ut in capitulo praecedenti, legitur hic: "Haec vero opera," quae scilicet circa negotia saecularia fiunt, "quae tibi minus congruere diximus, exhibeant sibi invicem vacantes laici, et te nemo occupet ab his studiis, per quae salus omnibus datur."

5. Ex quibus verbis colligitur, quod dispositio temporalium ad laicos spectat, quod saltem est verum, quando inveniuntur idonei et fideles. Vt autem generaliter explicetur, quae spectant ad iura et libertates aliorum laicorum et clericorum religiosorum et saecularium, puto quod huiusmodi sunt omnia illa, quae nec bonis moribus nec his quae in novo testamento docentur inveniuntur adversa, ut ab huiusmodi nullus Christianus sine culpa et absque causa rationabili et manifesta per papam valeat coerceri, nisi ad abstinendum ab aliquo tali per votum promissionem vel alium quemvis modum sponte obligaverit semet ipsum, vel per alium superiorem suum cui debeat obedire astringatur: et haec est libertas evangelicae legis, quae in sacris libris commendatur.

5 sic$^{t}$. n. ait. s$^{d}$. n. 6–7 sollicitu$^{es}$ t̄pales 19 v$^{m}$ qn̄ 27 colīceri

## CAP. X

Sed quaerit adhuc aliquis quae sunt in speciali illa ad quae principatus apostolicus se extendit.

2. Cui respondeo, quod ad papam, sicut generaliter ad omnes episcopos, prout testantur sanctiones canonicae, spectat lectioni, ordinationi, verbi Dei praedicationi et cultui divino ac omnibus illis, quae sunt necessaria et propria Christianis ad vitam adipiscendam aeternam et apud infideles non existunt, intendere. Specialiter autem et principaliter papa, quia non potest omnia talia in omnibus partibus facere per se ipsum, providere debet, utiliter et prudenter modum nullatenus excedendo, qualiter per inferiores eo salubriter disponantur : et illa est sollicitudo omnium ecclesiarum quam papa debet habere, et illa regulariter spectant ad ipsum, quae omnia inter spiritualia numerantur.

3. In casu autem necessitatis vel utilitatis, quae parificari potest necessitati, quando omnes alii ad quos spectarent deficerent, posset et deberet temporalibus se immiscere, damnabilem et periculosam negligentiam aliorum supplendo ; et haec est plenitudo potestatis, qua papa praeeminet et praefulget, qua regulariter vel casualiter omnia potest quae necessaria regimini fidelium dinoscuntur.

4. Illa autem quae non sunt necessaria, ne legem evangelicam legem efficiat servitutis, in illo casu in quo remanent non necessaria, imperare non potest, quamvis spiritualia sint, licet eorum aliqua valeat suadere.

## CAP. XI

Ad omnia vero, per quae nonnulli probare conantur, quod papa habet maiorem potestatem quam praescriptam,

X. 5 orōi 20 suplendo

vel quod habet aliquam plenitudinem potestatis, ut scilicet tam in temporalibus quam in spiritualibus omnia posset, in aliis operibus in speciali adducendo sui gloriam respondetur. Quapropter in hoc compendio sufficiat inserere aliqua notabilia generalia, per quae valebit intelligens ad illa omnia respondere, quae praedictis adversantur. Quorum primum est, quod sicut iuxta praedicta illa verba Christi, Matthaei 16, ad beatum Petrum, "quodcumque ligaveris" et cetera, cum suis exceptionibus debent intelligi. Ita etiam canones, quibus asseritur quod in omnibus obediendum est papae, cum suis exceptionibus debent intelligi. Aliter enim potestas papae esset aequalis potestati divinae et posset de iure imperatorem ac omnes reges et principes et universos mortales privare imperio regnis principatibus et generaliter omnibus rebus suis, et sibi accipere seu retinere vel aliis quibuscumque etiam personis vilibus assignare: quod tollit et destruit libertatem perfectam evangelicae legis.

2. Secundum est, quod legum etiam papalium quaedam sunt obligatoriae, quamvis moribus utentium nullatenus approbentur, et quibus absque certa scientia vel tollerantia papae per quemcumque consuetudinem derogari non potest; et quaedam sunt nullatenus obligatoriae, nisi more utentium approbentur, distinctione iv subscripto 'leges instituuntur'. Et immo canones et auctoritates aliae, quibus asseritur quod "constitutiones apostolicae omnes astringunt", intelligi debent de his constitutionibus apostolicis, quae sunt obligatoriae, licet moribus utentium minime approbentur. Quae sunt scilicet factae super his, quae sunt necessaria ad regimen fidelium salvis iuribus et libertatibus aliorum, et non de

aliis, quae non obligant, nisi fuerint moribus utentium approbatae.

3. Tertium est, quod sicut reges temporales mulctas scilicet superabundantes non ex necessitate sed ex largitione dederunt, imperatores et reges et alii fideles papae, quas non poterat vendicare iure divino, ita iurisdictionem et potestatem in multis sibi sponte, non ex necessitate, dederunt, quae ex iure divino sibi minime competebant. Et immo multae auctoritates, loquentes de potestate papae, de illa, quam habet ex iure humano, et non ex iure divino, debent intelligi, quae tanta est quantam sibi dederunt fideles. Et si aliud dubitetur quanta sit, ita ut interpretatio sit necessaria, huiusmodi interpretatio non spectat ad papam: sed vel spectat ad illum, qui talem potestatem dedit papae, et ad successorem eius; vel iuxta prudentiam et consilium sapientis, sincerum zelum habentis, seu fuerit subditus seu praelatus. Si talis viri copia non possit haberi, est interpretatio benignior humanior rationabilior et verisimilior amplectenda.

## CAP. XII

Qvamvis per praedicta possit studiosus ad obiectiones innumerabiles respondere, tamen ad unam duxi specialiter respondere, quae talis est. Communitas fidelium uni capiti et iudici supremo debet esse subiecta, quantum ad omnes causas et casus quae possunt accidere, quia aliter nequaquam esset optime ordinata, eo quod vel haberet plurima capita vel capite omnino careret: quorum utrumque monstruosum est censendum. Sed nullus praeter papam est caput cunctorum fidelium quantum

3 3m e' _ 3–4 mtas ·s· s̄rhn̄dātes 18 copia possit
XII. 27 pl̄ra 29 ppam p't'

ad omnia, quia non imperator, cum spiritualia nequaquam spectent ad ipsum: ergo papae quantum ad omnia communitas fidelium est subiecta.

2. Ad quam respondeo, quod sicut archiepiscopus in archiepiscopatu et patriarcha in patriarchatu suo est caput primum et supremus iudex in spiritualibus, licet non posset cognoscere de causis subditorum, nisi per appellationem vel alium modum concessum a iure deferantur ad ipsum, ix quaestione iii 'conquestus'; et immo non est regulariter et ordinarie iudex omnium in patriarchatu suo vel archiepiscopatu degentium quantum ad omnia, sic licet non omnes fideles sint immediate subiecti in omnibus papae, nec papa in multis casibus sit iudex ipsorum, tamen quia in omni causa necessario definienda per iudicium regulariter vel casualiter iure divino potest esse iudex, immo concedendum est, quod papa sub Christo est caput et iudex summus omnium fidelium: non sic imperator, quia imperator, in quantum imperator, cum multi veri imperatores fuerunt infideles, non debet se etiam casualiter spiritualibus immiscere, licet si est fidelis in quantum fidelis de multis causis spiritualibus in multis casibus se intromittere teneatur, et praecipue de fidei causa, "quae ad omnes omnino pertinet Christianos", distinctione xcvi 'ubinam' et capitulo 'nos ad fidem'.

## CAP. XIII

Collige ex praedictis in quibus consistat sublimitas apostolici principatus, quia consistit in tribus. Primo in

7 po3 9g°re *signum* ∧ *post* nisi *in textu et* p̄ *in margine addidit secunda manus* 12 nō *super signum* ∧ *post* licet *scriptum est* 14 fit 15 diffiniēda 20 c̄ualit' casua[t]
XIII. 27 ī·3.[b3]

hoc, quod est respectu spiritualium, quae sunt saecularibus digniora, distinctione xcvi 'duo'. Secundo in hoc, quod est respectu liberorum, non respectu servorum, quia iure divino nullus est servus papae, licet aliqui sint servi papae seu Romanae ecclesiae iure humano, sicut ex auctoritate beati Augustini supra Iohannem, quae ponitur distinctione viii capitulo 'quo', colligitur. Tertio in hoc, quod papa iure divino regulariter vel casualiter omnia potest, quae sunt necessaria regimini et gubernationi fidelium, quamvis eius potestati ordinarie et regulariter sint certi termini constituti, quos regulariter transgredi sibi non licet. Et qui sint illi, claret ex praedictis, licet non liqueat qui sint casus, in quibus licent sibi illa, quae nequaquam sibi regulariter sunt concessa. Et forte de eis non potest dari certa regula generalis, sed in eis est cum maturitate maxima procedendum, iuxta discretionem et consilium sapientissimorum virorum iustitiam sincerissime sine omni personarum acceptione zelantium, si possunt haberi, seu pauperes sint seu divites, seu subiecti seu praelati. Si autem talem copiam haberi non potest, supersedendum est, ne papa ex ignorantia, qua de facto saepe laborat, periculose terminos transgrediatur antiquos et sententias ferat, quae ipso iure divino sint nullae.

## CAP. XIV

Sane quia nonnulli, etiam qui se reputant eruditos, affirmant quod sententia papae in nullo casu ipso iure potest esse nulla, allegantes illa verba Gregorii quae ponuntur xi quaestione iii capitulo i: "Sententia pastoris, seu iusta seu iniusta, timenda est." Monstrandum

7–8 di ooiii c° q° colligr

est, quod licet illa verba Gregorii sint regulariter vera, tamen secundum iura in multis casibus fallunt, etiam loquendo de sententia veri pastoris, et non solum de sententia illius, qui putatur esse pastor et non est. Fallunt enim, si sententia etiam veri pastoris lata est "contra leges vel canones": extra de sententia et re iudicata capitulo i. Ex quo conclude quod sententia etiam veri vicarii Christi non est timenda, si contra ius divinum vel contra ius naturale feratur, quia utrumque nobilius est et dignius ac magis indispensabile, et minus solvi potest quam leges et canones, et minus potest contra ipsam vicarius Christi, quam praelati inferiores contra canones.

2. Fallunt etiam, "quando sententia continet intolerabilem errorem": extra de sententia excommunicationis 'per tuas'. Adhuc fallunt, quando sententia lata est in eo casu, in quo subditus est exemptus: extra de excessibus praelatorum 'cum ad quorumdam'. Et ita fallunt, quando fertur sententia contra quemcumque in illa causa et in illo casu in quo non est subditus. Potest enim quis in eadem causa primo non esse iudex et postea iudex, sicut archiepiscopus in causis subditorum suffraganeorum suorum ante appellationem non est iudex, et post appellationem est iudex: ix quaestione iii 'conquestus'.

3. Adhuc fallunt verba praedicta Gregorii, quando sententia lata est contra subditum in causa quantum ad quam subditus est maior pastore suo ferendo sententiam contra ipsum, sicut delegatus a principe est maior suo episcopo quantum ad causam sibi delegatam, extra de excessibus praelatorum 'dilectus' in glossa et extra de officio iudicis delegati 'sane'.

XIV. 1 v$^{a}$ .tn̄ 3 lodo 6–7 r' iu c$^{o}$ ·i· 14 ffallūt

4. Fallunt etiam, "quando sententia lata est post appellationem legitime interdictam": extra de sententia excommunicationis 'per tuas'.

5. His modis et forte aliquibus aliis fallunt verba praedicta Gregorii, quando sententia lata est a vero pastore. De quibus non est dubium quin fallant, quando lata est ab illo, qui non est verus pastor, quamvis putetur esse verus pastor.

## CAP. XV

His visis monstrandum est qualiter ecclesia Avinionica universis Christi fidelibus graves iniurias inferens et enormes Christianis omnibus nititur tyrannice principari. Quod ut liberius faciat et absque omni timore, non absque nota tyrannidis persequitur eos, qui de potestate sua etiam recta intentione non metuunt disputare, ita ut in universalibus et aliis studiis nullus doctor vel lector aliquam conclusionem de potestate papae ad disputandum et determinandum proponere vel recipere audeat quoquo modo; cum tamen disputare de potestate papae (non intentione tollendi vel minuendi eam aut revocandi in dubium ea quae circa ipsam sunt tenenda, sed intentione confutandi circa ipsam errantes seu minuendo seu plus quam expedit applicando eam, et ea quae de ipsa sunt ignota ad publicam notitiam deducendi) tam papae quam subditis omnibus debeat esse gratum et acceptum, eo quod scire quam et quantam et quo iure papa habeat potestatem necessarium est utrisque. Haec enim necessaria est subditis ut tantum et non plus quam expedit sint subditi, ut

**XV.** 12 *post* timore *et super* nota *scripsit* nō absȝ *secunda manus* 15 ūlibȝ 16 amª 9°nē 18 q°q° m°. cū tn̄ 26 p̄tatē nc̄ca

Gregorius ait prout legitur ii quaestione vii 'admonendi': "Admonendi sunt subditi, ne plus quam expedit sint subditi." Hoc etiam necessarium est papae, "ne transgrediatur terminos antiquos, quos posuerunt patres sui". Quare si papa timorem incusserit disputantibus de potestate eius, merito ostendit se suspectum, quod non intendit legitimis finibus propriae potestatis esse contentus, sed sibi subiectis principari tyrannice, "quod sicut apparet subditum qui iudicium refugit de iustitia esse diffisum" (xi quaestione i 'Christianis', extra de praesumptionibus 'nullus', iii quaestione ix 'decrevimus', distinctione lxxiv 'honoratus'), sic superior, qui offenditur aut turbatur, si subditi disputando allegando opponendo respondendo studendo et aliis modis scire nituntur, qua super ipsos sit praeditus potestate, merito est suspectus habendus quod non proponit infra fines potestatis legitimae ambulare.

2. Iniuriatur igitur ecclesia Avinionica scholasticis et aliis incutiendo timorem, ne de potestate papae audeant disputare, et quod per scripturas authenticas et rationes de ea invenerint, publicare.

3. Nec obstat, quod xvii quaestione iv capitulo 'nemini' et subscripto 'committunt' asseritur, quod non licet disputare de potestate summi pontificis, quia hoc non licet intentione minuendi potestatem summi pontificis vel revocandi in dubium ea quae circa ipsam sunt tenenda, sicut tali mala intentione non licet disputare de potestate imperatoris; codice de crimine sacrilegii legitur 'disputare': nec de fide catholica; codice de summa trinitate et fide catholica legitur 'nemo'. Sed disputare de omnibus illis bona intentione vel cum

1 g'g' 10 ii .q. i X'an9 11 de p'sūpc'. n9 12 di lxxxiii 18 scolastic℄ 20 audēt 21 puplir' 22 q .iiii. c 23 + ℘℘ 9m'tit~

discretione debita et circumspecta est inter utilia et necessaria communitati fidelium reputandum, nec sunt praedicto modo in servitutem catholici redigendi contra libertatem evangelicae legis.

## CAP. XVI

Non solum autem fas est literatis viris quam papa habeat potestatem discrete et bona intentione inquirere, sed etiam expediens et necessarium est eis de operibus eius, si bono animo non possunt fieri, iudicare, id est, quod mala sunt et reprehensibilia reputare atque hoc pro loco et tempore asserere et aliis intimare, quia de manifestis licet unicuique iudicare: extra de regulis iuris 'estote'. Licet igitur pro facto papae sit praesumendum, quando bono animo fieri potest, tamen quando est tale, quod bono animo fieri nequit (sicut est fornicatio, bonorum oppressio, rerum alienarum vel iurum invasio vel detentio, veritatis damnatio, haeresium doctrinatio, diffamatio innocentium, pacis turbatio, aggressio hostium, insontium partialitas, indignorum promotio, dignorum abiectio, simonia, superbia, avaritia, seminare discordias, distrahere, mentiri, tyrannis, homicidium et huiusmodi) licet unicuique iudicare: immo talia opera papae damnabilia censere tenetur, teste Gregorio, qui in moralibus legitur et distinctione xlvi 'sunt nonnulli' ait, "Sanctus vir, sicut mala de bonis non existimat, ita iudicare bona de malis recusat." Cum igitur papa, sicut et ceteri, sit "ex suis fructibus cognoscendus", Matthaei 7, si opera sua ex natura sua sint mala, qui ipsum sanctum vel iustum dixerit aeterna damnatione

**XVI.** 5 frat℘ 7 expedi6 12 *super* esto *scripsit* te *secunda manus et* estote *in margine* 19 symōiā 23 +le˜ di. 46

dignus est iuxta illud Isaiae 5, "Vae qui dicitis bonum malum et malum bonum," et etiam abominabilis est apud Deum: quia secundum beatum Hieronymum, ut legitur xi quaestione iii 'si quis'; "'Si quis dixerit iustum iniustum et iniustum iustum, abominabilis est uterque apud Deum.' Similiter qui sanctum dicit non sanctum et rursum non sanctum asserit sanctum, abominabilis est uterque apud Deum." Sicut igitur abominabilis est apud Deum, qui papam sanctum dicit non sanctum et papam iustum dicit iniustum, sic ille abominabilis est apud Deum, qui papam non sanctum, cuius videlicet opera non possunt bono animo fieri, dicit sanctum, et qui talem papam iniustum dicit iustum.

## CAP. XVII

Videndvm est itaque quae sunt opera Avinionicae ecclesiae, quae bono animo fieri nequaquam possunt, per quae aliis iniuriari dinoscitur.

2. Et quidem primo sciendum est, quod specialiter iniuriatur Romano imperio vendicando sibi pinguius ius temporale super ipsum quam super alia regna. Nam tale ius super Romanum imperium non habet, neque a iure divino nec a iure humano: non a iure divino, quia de huiusmodi iure super Romanum imperium in scripturis divinis nihil habetur, nec a iure humano, quia talis iuris humani alius quam imperator conditor esse non posset. Imperator autem tale ius super imperium in praeiudicium successorum suorum papae dare non potest, licet enim res aliquas quae spectant ad imperium aliis dare possit, ipsum tamen imperium non potest homini subiugare, ut minus iuris habeant successores sui quam ipse, "cum non habeat imperium par in

1 yρ 1 v. ve q$^{l}$ 2 abhōia$^{l-}$

parem" et verus successor "eodem iure uti debeat quo ille, in cuius ius succedit": extra de regulis iuris 'si quis' libro vi.

## CAP. XVIII

Ex his colligitur, quod ecclesia Avinionica enormiter iniuriatur Romano imperio, subiciendo sibi tyrannice, specialiter in Italia, civitates castra et alia bona imperii, quia alibi non potest tyrannidem suam per temporalem potentiam exercere.

2. Nam si papa, sicut ostensum est prius, non debet se saecularibus negotiis implicare, multo magis non debet res temporales aliorum absque consensu ipsorum sibi usurpare vel appropriare, nam, sicut aperte invenitur xii quaestione ii 'sicut ecclesia', nulla ecclesia debet res alienas invadere.

## CAP. XIX

Adhvc per praedicta ostenditur, quod ecclesia Avinionica iniuriatur Romano imperio asserendo ipsum esse a papa, quia cum sicut ostensum est, papa non habeat pinguius ius super Romanum imperium quam super regem Franciae et alia regna, quae non sunt a papa, ut liquido constat, et papa muniatur specialiter de regno Franciae (extra, qui filii sunt legitimi, 'per venerabilem'), concluditur manifeste, quod Romanum imperium non est a papa.

2. Amplius Romanum imperium fuit ante papatum, ergo in sui principio non fuit a papa, et per consequens nec post institutum papatum est a papa. Et ex isto

XVII. 2 *recte leginus* 'si quis' *sed ligno subscripto carent* XVIII. 6 ytalia 12 īuuit˜ XIX. 20 munitr

sequitur, quod si papa in aliquo nisi forte petendo specialiter necessitates suas ab imperatore, si est fidelis, pro eo quod est specialiter episcopus urbis Romanae, se in aliquo intromittit de Romano imperio, ipsis invitis ad quos spectat dispositio eiusdem imperii aliter quam de aliis regnis vel aliter quam ab imperatoribus ordinatum extitit, seu vacante imperio seu non vacante, eidem iniuriatur imperio, mittendo falcem suam in messem alienam, quia talem potestatem non obtinet super Romanum imperium neque a iure divino neque a iure humano.

3. Nec valet etiam verae Romanae ecclesiae consuetudinem aliquam allegare, nisi sit rationabilis et praescripta et modis legitimis sit inducta, quod de multis impossibile, de multis difficile, est probare: et certe multae consuetudines, quas ecclesia Avinionica pro se allegat contra imperium, duabus viis principalibus includentibus quam plurimas possunt faciliter reprobari et annullari, ostendendo videlicet, quod vel non sunt rationabiles, vel quod nequaquam legitime sunt praescriptae.

4. Potest autem ostendi, quod consuetudo non est rationabilis, si esset contra ius divinum vel contra bonos mores, si est periculosa, si est scandalosa, si est praeiudicialis bono communi vel etiam alicui personae, cui non possunt licite tolli iura et libertates suae, et aliis modis.

5. Quod etiam consuetudo nequaquam legitime sit praescripta, potest multis modis ostendi, sicut per iura canonica et civilia liquet aperte.

3 $\overline{\text{epc}}$ 14 de $\overline{\text{mt}}\rho$ $\overline{\text{mlt}}\rho$ 23 eēt $9^{\text{a}}$ ius

## CAP. XX

Adhvc ecclesia Avinionica iniuriatur Romano imperio asserendo quod ad ipsam spectat admissio seu approbatio electi in regem seu imperatorem Romanorum, ita ut ante talem admissionem seu approbationem non possit de iure nomen regnum et titulum sibi assumere, nec se administrationi regni seu imperii immiscere. Nam sicut ostensum est prius, papa non habet pinguius ius super imperium seu super personam imperatoris quam super alia regna et alios reges. Alia autem regna et alii reges, saltem plures et plura, nequaquam taliter subiciuntur papae, ut ante admissionem seu approbationem a papa non possint de iure nomen regnum et titulum sibi assumere et se administrationi regnorum suorum immiscere: ergo nec electus in regem seu imperatorem Romanorum taliter papae est subiectus, talis enim specialis subiectio imperatoris nec est de iure divino, ut liquet omnibus intelligentibus scripturas sacras, nec ex iure gentium, quod praecessit imperium, nec ex iure civili, ut patet.

2. Nec est ex iure canonico, quia papa non habet potestatem subiciendi sibi taliter imperatorem, sicut nec habet potestatem subiciendi sibi taliter alios reges, nec ex consuetudine est talis subiectio, quia consuetudo non habet vim legis nisi sit rationabilis (extra de consuetudine capitulo ultimo) praesertim quae iuri vel libertati, quae tolli non debet ab invito, praeiudicare dinoscitur. Talis autem consuetudo huiusmodi subiectionem imperatoris inducens non esset rationabilis nec praescribi valeret. Quod non esset rationabilis patet, tum quia derogaret imperiali dignitati, eo quod huiusmodi electus non esset verus successor priorum electorum in imperatores, quia taliter summo pontifici subiecti non fuerunt, quia non posset uti omni iure quo illi usi fuerunt: tum

quia derogaret bono communi, nam tam ex malitia papae, qui saepe imperio adversatur, quam ex vacatione apostolicae sedis, quae 6 annis aliud duravit et multo pluribus durare valeret, possent inter subiectos imperio guerrae periculosae et alia innumera mala oriri, quae absque imperatore sedari non possent et quo administrante cessarent. Quare expectando admissionem seu approbationem a papa bonum commune periret.

3. Ex istis concluditur, quod talis consuetudo legitime praescribi non potest, quia nulla consuetudo, quae non est rationabilis, potest legitime esse praescripta. Quod etiam probatur per hoc, quod consuetudo introducta ab aliquo vel aliquibus in praeiudicium alterius, praesertim qui in huiusmodi non est inferior illo vel illis, a quo vel a quibus eadem consuetudo noscitur introducta, non praeiudicat illi nisi introducta sit illo sciente et intendente quod sibi praeiudicet. Nam ut dicit glossa, distinctione viii super capitulo 'frustra', "Ad hoc quod consuetudo praeiudicet iuri", et eadem ratione personae quae non est subiecta in huiusmodi, "requiritur quod sit antiqua et approbata," ab illo scilicet cui praeiudicare debet; sed quod saepius electi in regem Romanorum non fecissent praedictam ante admissionem et approbationem a papa, sed de facto taliter admissi et approbati fuissent, tum non potuerunt intendere quod talis admissio vel approbatio praeiudicaret successoribus suis, "cum non habeat imperium par in parem": extra de electione: et si hoc esset, successores eorum non essent veri successores illorum, a quibus initium sumpsit imperium; quare nomina Caesaris et Augusti sibi usurpare deberent.

4. Amplius "imperator solutus est legibus", quod praecipue veritatem habet de legibus potestatis imperia-

XX. 3 q̂ ·6· 20 hi⁹ 23 āū āū 27 imparē

libus, quare consimiliter solutus est consuetudinibus, quae vim legis habere non possunt nisi imperiali auctoritate. Sed consuetudo supradicta si fuisset non haberet vim legis, nisi auctoritate imperiali, quia contra scientiam vel voluntatem imperatoris non potuit introduci. Ergo imperatores sequentes ad ipsam non tenentur, et ita talis consuetudo contra imperatorem praescribi non potest.

5. Rursus sicut usucapio introducta est legibus Romanorum, distinctione i 'ius Quiritum', ita etiam praescriptio est introducta legibus Romanorum. Imperator autem huiusmodi legibus est solutus, ergo talis consuetudo contra imperatorem praescribi non potest.

6. Propterea consuetudo tam praeiudicialis alteri, et praesertim tantae dignitati, sicut est imperialis sublimitas, non potest facere ius, etiam si esset possibile quod faceret ius, nisi sit obtenta contradicto iudicio, teste glossa, quae extra de verborum significatione super capitulo 'abbate' ait, "Ad hoc enim ut consuetudo valeat, oportet ut sit obtenta contradicto iudicio, si ex adverso negetur consuetudo"; quod etiam dicit glossa extra de consuetudine super capitulo ultimo et distinctione viii super capitulo 'frustra'. Sed talis consuetudo ut electus in regem Romanorum seu imperatorem abstinere a praedictis ante admissionem seu approbationem per papam nunquam fuit obtenta contradicto iudicio, ergo non praeiudicat sic electo. Adhuc electus ad aliquam dignitatem, qui confirmatione non indiget, potest sibi nomen huiusmodi dignitatis assumere et se administrationi eiusdem dignitatis immiscere, licet non admittatur nec approbetur ab illo, qui non est eo quantum ad huiusmodi dignitatem superior: propter hoc enim papa, quia nequaquam ab alio confirmatur, statim

14 pp$^{a}$ 17 frēt ius n$^{l}$ 29 n$^{n}$ hī$^{9}$

administrare potest eo ipso quod est electus, licet ab aliquo nullatenus admittatur vel approbetur. Electus autem in regem Romanorum confirmatione non indiget, nec quantum ad dignitatem imperialem inferior est papa; ergo statim eo ipso, quod est electus, potest nomen regnum et titulum sibi assumere et se administrationi imperii immiscere.

## CAP. XXI

Liqvet per praescripta, quod isti Avinionenses, rerum et iurum imperialium insatiabiles appetitores et rapacissimi invasores, res et iura imperii, quae absque imperatorum donatione seu concessione acceperunt, quorum nonnulla hostiliter invaserunt, etiam si essent vera et Romana ecclesia, iniuriose et tyrannice et iniuste detinere noscuntur.

2. Quia si Romana ecclesia bona eiusdem ecclesiae, non armis et potentia saeculari, sed iudicio, debeat vendicare, xvi quaestione v 'consuetudo', multo magis bona imperii et quaecumque alia non debet armis invadere, immo nec fas est ei huiusmodi bona a rebellibus vel non subiectis imperio gratis oblata recipere: xvii quaestione ultima 'quicumque'.

## CAP. XXII

Ad hoc isti libidine dominandi prostrati et penitus excaecati tanta aviditatis et rapacitatis rabie sibi Romanum imperium gestiunt subiugare, quod inter principes et populos imperii discordias seditiones et guerras in totius Christianitatis periculum, cum veritas ipsa dicat, "Omne regnum divisum contra se desolabitur", confovere non desinunt et augere ac novas perperam

XXI. 13 v^a 17 xvi .q. 5

suscitare ; ut sic ad desiderium suum iniquum unam partem deceptorie protrahentes, illa mediante, aliam omnino destruant et prosternant et sic eandem in servitutem redigant universos. Hoc impiissime his diebus tam notorie peregerunt, quod nulla possunt tergiversatione celari, dum falsis processibus et de iure nullis contra imperatorem publice divulgatis alium in regem eligi procuraverunt.

## CAP. XXIII

Nec possunt se aliqualiter excusare dicendo, quod hoc fecerunt propter fidem et honorem ecclesiae conservandum, quia si rite examinaretur causa, quae vertitur inter imperatorem et ipsos, non ipse in his quae sibi imponunt sed ipsi sicut et in plurimis aliis, prout inferius ostendetur, probarentur errare et errores suos pertinaciter defendere. Quod tamen de ipso probare non posset, etiam esto quod erraret, cum superfuisset paratus se corrigere, si legitime convinceretur errare ; et esto quod in omnibus, quae sibi imponunt, esset culpabilis iudicandus, et ipsi essent veri pastores ecclesiae, ad tantam tamen et tam periculosam stultitiam procedere non debebant propter infinita pericula, quae ex ipsa toti Christianitati et ipsismet imminere valerent, praesertim cum imperator invitus et coactus guerris et proeliis se nullatenus immiscere noscatur, ad quae ad ipsorum fortassis ultimam deiectionem eum compellunt, non attendentes quod propter scandala discrepationes et pericula sunt crebro etiam quae alias essent iusta et licita dimittenda, teste Augustino, qui ad Bonifaciam, distinctione I 'ut constitueretur', ait : "Vbi per graves

**XXII.** 1 desidiū **XXIII.** 26 distē$^{\text{ues}}$ 28 bonefa$^{\text{m}}$ 29 ꝑstir$^{\text{t}}$

dissentionum scissuras non huius aut illius hominis periculum, sed populorum strages iacent, detrahendum est aliquid severitati."

2. Hinc Augustinus, ut legitur xxiii quaestione iv 'non potest', de huiusmodi stultis processibus sententiis et consiliis dicit, "Consilia separationis (id est, excommunicationis et damnationis) et inania sunt et periculosa atque sacrilega, quia impia et superba sunt et plus perturbant infirmos bonos quam corrigunt animosos malos". Si hoc dicit Augustinus de sententiis et consiliis separationis, "quando contagio peccandi multitudinem invasit", quid dicetur et fiet de sententiis et consiliis separationis, quando multitudo amplectitur et sequitur veritatem atque iustitiam?

3. Re vera iuxta desiderium apostoli ad Galatos 5, "Abscidendi sunt qui multitudinem sic conturbant", et saeculari potentia continendi.

4. Nec possunt isti excusari, si asserant se fecisse propter servandas res et libertatem ecclesiae, quia esto quod imperator invaderet res ecclesiae, non tamen deberent tam periculose contra ipsum talia attemptare, sed oporteret eos in tali casu servare doctrinam Christi, Matthaei 5, "Ei qui vult tecum in iudicio contendere et tunicam tuam tollere, dimitte ei et pallium": et Lucae 6, "Ab eo, qui aufert tibi vestimentum, etiam tunicam noli prohibere, et qui aufert tibi, quae tua sunt, ne repetas." Nec deberent praesumere talia propter libertatem ecclesiae, quia libertas ecclesiae sicut et honor temporalis ipsius inter bona minima computatur, et immo sicut in tali casu relinquendae essent res temporales, ne res temporales quieti et paci fidelium praeferantur, sic in tali casu esset libertas ecclesiae deserenda et esset sequendum consilium et doctrina

**1** h9 **4** q. iiii **14** v'i$^{t\bar{e}}$ et se˜ **25–26** et tūicā **26** ve$_{\bar{s}}$ti$^{t\bar{u}}$ q̄ tua

Augustini in praeallegato capitulo 'non potest', dicentis: "Non potest esse salubris a multis correctio, nisi cum ille corripitur, qui non habet sociam multitudinem. Cum igitur idem morbus plurimos occupaverit, nihil aliud restat bonis quam dolor et gemitus." Cum igitur ecclesia Avinionica iniuste contra imperatorem innocentem processerit, sequitur quod inexcusabiles sunt censendi, etiam si in tali casu contra nocentem procedere tenerentur taliter.

## CAP. XXIV

Non solum autem Romano imperio sed etiam quantum ad res ecclesiasticas ecclesia Avinionica iniuriatur materialiter Christianis aliter ordinando de eis et disponendo quam ordinaverunt illi qui dederunt. Ad eius evidentiam sunt duo scienda. Primum est, quod clericis quaedam bona temporalia debentur iure divino, illa scilicet quae sunt necessaria pro eorum necessitatibus relevandis: quaedam autem non debentur eis iure divino, bona scilicet superabundantia, quae pro pauperibus sustentandis, ecclesiis fabricandis, hospitalitatem sanctificando et aliis piis causis, eis imperatores et reges ac fideles alii non ex necessitate sed ex sola devotione et pia largitione dederunt.

2. Secundum est, quod secundum leges consonas rationi quilibet in traditione rei suae, quam tradere non tenetur sed ex pura libertate tradit seu donat, legem conditionem modum et pactum quod vult potest impetere, dummodo a ratione vel lege sit: debet huiusmodi lex conditio modus vel pactum a re perservare.

3. Ex his concluditur, quod ecclesia Avinionica ordi-

2 salubór 5 boni ·s· XXIV. 11 mr 19 sc̃tādo et 27 lege . . dꝫ hī9

nans et disponens de rebus ecclesiasticis clericorum seu saecularium seu religiosorum aliter quam ordinaverunt illi qui dederunt, scilicet tollendo ab eis et accipiendo sibi vel aliis tribuendo clericis, iniuriatur eisdem: et immo papa vel gerens se pro papa, si de bonis superabundantibus clericorum dat decimas vel aliquam aliam certam partem alicui clerico vel laico, vel etiam accepit pro se ipso, ipsis iniuriam irrogat manifestam, nisi donans res huiusmodi clericis talem papae concesserit potestatem. Et immo quia in privilegiis principum qui dotaverunt ecclesias non habetur quod ipsi talem super rebus quas dederunt ecclesiis papae concesserunt potestatem, papa de rebus ecclesiae taliter se intromittere minime potest. Et immo si imperator rex vel princeps iuvare vult pro piis causis de rebus superabundantibus ecclesiae quas ipse vel praedecessores sui dedit vel dederunt ecclesiis, non debet petere subsidium a papa de huiusmodi rebus, nisi forte papa ex consuetudine colorata scienter in alia regione talem obtinuerit potestatem; sed auctoritate propria in casu necessitatis pro piis causis potest ab ecclesiis subsidium postulare.

## CAP. XXV

Adhvc ecclesia Avinionica iniuriatur imperatori et aliis fidelibus, quantum ad res datas Romanae ecclesiae, negando eis ius exigendi tributum et censum, quod pro eis solvebatur, antequam essent datae Romanae ecclesiae. Nam vera Romana ecclesia non potest privare imperatorem et fideles alios huiusmodi iure respectu eorum quae sunt data Romanae ecclesiae, nam "res transit cum onere suo", sicut testantur leges canonicae

13 de se 14–15 iuvarc p 16 d̄ p'decessores
XXV. 28 date

et civiles. Si ergo possessiones et praedia antequam darentur Romanae ecclesiae solverant censum et tributum, etiam nunc solvere debent, nisi possit ostendi, quod dantes tali modo eas dederunt, quod non solverent.

2. Amplius si imperator et fideles privati sunt iure exigendi huiusmodi tributum et censum de rebus Romanae ecclesiae, aut privati sunt a iure aut ab homine : si a iure, aut a iure divino aut a iure humano. Non a iure divino, quia de hoc in scripturis divinis, in quibus ius divinum habemus, distinctione viii 'quo iure', nihil habetur: nec a iure humano, quia ius humanum in legibus imperatorum habemus. Ergo si imperatores talem immunitatem non dederunt rebus Romanae ecclesiae, ipsam non habent. Nec imperatores et alii privati sunt huiusmodi iure ab homine, quia nec a papa (cum potestas papae ad temporalia regulariter minime se extendat, nec papa habeat potestatem tollendi iura et libertates aliorum, sicut superius ostensum est, quia hoc est contra libertatem legis evangelicae, per quam quilibet gaudere debet iuribus et libertatibus suis, nisi ipse sponte renuntiaverit eis vel propter culpam aut ex causa rationabili et manifesta sit privandus); nec ab alio homine quam a papa sunt privati huiusmodi iure, sicut patet.

## CAP. XXVI

Cavsa brevitatis omitto ad praesens probare, praesertim quia in aliis operibus exquisite probatum existit, qualiter ecclesia Avinionica cupiens omnibus, qui essent eius vilissimi servi, cum austeritate et potentia imperare, iniuriatur eisdem ac fideles multipliciter decipit et totam Christianitatem conturbat—videlicet usurpando sibi po-

2–3 t'butū et nō solu'e 9 dīs ī q$^{19}$ 12 cuuu$^{tō}$ XXVI. 28 m$^{t'}$

testatem quam non habent in privando fideles clericos et laicos rebus iuribus et libertatibus suis, in humeros ipsorum onera importabilia imponendo, res tam Romanae ecclesiae quam aliarum in abusus multimodos expetendo, inter Christianos guerras seditiones et discordias procurando et suscitatas fovendo, suos partialiter promovendo et nationes alias contemnando, iuramenta licita relaxando, subiectos principibus et aliis a fidelitate et debito obsequio absolvendo, vota facta Deo remittendo vel ad libitum commutando, ecclesias cathedrales et alias canonica electione privando et de rebus earum ut libet disponendo, per iniquas sententias et processus iniustos laqueum ponendo simplicibus, religiosos nonnullos ad maiorem arctitudinem quam regula eorum contineat obligando vel maiorem relaxationem concedendo vel ut ad saeculum redeant indulgendo et inter eos statuta illicita faciendo, doctrinas catholicas et quae fidei Christianae non obviant condemnando, et profectioni scientiae materialiter impediendo et cogendo literatiores et intelligentiores eis ut in eorum obsequium suum intellectum contra rationem et scripturas sacras captivent, de factis suis et scripturis reddere rationem nolendo, alios, quoscumque se in eorum iniquitatibus vel erroribus ausi fuerint refragari vel ius suum aut iustitiam contra eorum voluntatem prosequi vel defensare temptaverint aut suam innocentiam declarare, ipsos de falsis criminibus mendaciter diffamando, et de haeretica pravitate vocando, et si ipsos habuerint corporaliter occidendo, vel perpetuis carceribus mancipando—innumerabiles aliae iniuriae et excessus eorum, quibus populum Christianum afficiunt turbant et seducunt et in servitutem contra libertatem evangelicae legis conantur redigere, narrari valerent, quae et qui in Dia-

logo explicantur et disputatione discutiuntur. Sed si de praedictis fieret iustitiae plenitudo, puto quod alia possent faciliter emendari: arbitror autem quod praedicta minime corrigerentur, et quod nunquam inter occupantes apostolicam sedem et alios Christianos pax vera firmabitur, nisi irrefragabiliter quanta papa ex iure divino impollebat potestate, per clericos et laicos sanctiatur, quia, quamdiu hoc ignorat fidelium multitudo, et papa fines suos ex libidine dominandi et temporalia possidendi vel ex ignorantia transgredi molietur, et alii res iura et libertates suas, vel cum ratione, quae etiam aliud simplicibus in vexatione positis se offert, vel sine ratione eis nota tueri nitentur: et ita inter eos ipsos pugna pertinax non cessabit.

2. Aestimo autem, sicut dictum et probatum est prius quamvis brevissime, quod papa ex iure divino nulla alia praedicta potestate, nisi quod illa, potest quae sunt necessaria saluti ac regimini et gubernationi fidelium, salvis rebus iuribus et libertatibus aliorum a Deo et a natura et ab ordinatione humana rationabili eis concessis, hoc salvo quod ab aliis quibus semina spiritualia potest necessaria pro suis necessitatibus competenter, moderate tamen exigere: et ita nec valet ex iure divino supererogatoria imperare nolentibus nec iura et libertates aliorum turbare. Et immo principatus apostolicus principatus non est dominativus sed ministrativus, qui propter suam dignitatem et nobilitatem saeculares principatus superat universos, omnem aliam potestatem, qua radiat, iure humano recipit, qua persona papae, quamvis forte non sedes, propter ingratitudinem et abusum in multis casibus privari iuste deberet.

3. Autumo vero quod nequaquam ferventer desiderat

7 sancciat˜

ad publicam deduci notitiam qua et quanta et quo iure papa polleat potestate : zelum Christianitatis non habet, vel non secundum scientiam : quamobrem omnes literati circa ipsam indagandam his periculosis temporibus occupari deberent propter infinita mala quae ab antiquis temporibus inter Christianos ex ipsius ignorantia provenerunt : aliter enim " alligatum est verbum Dei in ore " ipsorum et erunt sicut " canes non valentes latrare ".

## CAP. XXVII

Sane quia ecclesia Avinionica omnes qui eis iuste vel iniuste audent resistere haereticare molitur (ut qui scire voluerint non ignorent quod ipsi sunt inter haereticos et inventores ac defensores errorum stultissimorum et inopinabilium vel vix opinabilium, et qui magis sunt fantastici quam sophisma numerandi) quosdam de eorum erroribus duxi praesentibus inserendos quatenus sciatur aperte, an doctrina ipsorum doctrinis illorum quos damnare desiderant valeat comparari.

2. Ponam autem praedictos errores sub eisdem verbis, sub quibus per mundum sub bulla sunt transmissi tamquam credendi firmiter et tenendi, ne dicant aemuli, quod muto verba Avinionicae doctrinae.

3. Est itaque primus errorum ipsorum hic inserendus, utilitatem et perfectionem ac praecellentiam voti paupertatis et rationem consilii omnium aliorum votorum destruens et excludens, qui ponitur in libello bullato ' ad conditorem '. Quod si sollicitudo, scilicet circa temporalia acquirenda conservanda et dispensanda, eadem post expropriationem huiusmodi quae sit per votum paupertatis, perseveret, ad perfectionem huiusmodi talis

3 $\overline{\text{scias}}$ **XXVII.** 15 sōpma nu'ādi

expropriatio valet nil conferre. Ex quibus verbis sequitur manifeste, quod eadem sollicitudine licita et per consequens maiori remanente circa temporalia votum paupertatis ad perfectionem nil valeret conferre, et ita cum praelati religiosorum mendicantium et aliorum ac etiam alii professi in ordinibus saepe licite et meritorie tantam et non nunquam maiorem habeant sollicitudinem circa temporalia post professionem quam in noviciatu ⟨ante expropriationem talem habuerant⟩.

4 nil valer't 9fr't 8 *sine puncto finitur textus: verba post* noviciatu *e Comp. Err. conieci*

# NOTES

**Page 1**: 1. *Vniversis Christi.* This method of introducing a work with an accusative, dative, and infinitive is quite common in the case of a letter or small tract: see Ockham's *Epistola ad Fratres Minores* (Paris, MS. Bibl. Nat. 3387), which begins, 'Religiosis viris fratribus minoribus universis . . . apud Assisium congregatis frater Guilhelmus de Ocham fidem defensare.' Also compare Michael of Cesena, *Tractatus contra errores Iohannis XXII*, in Goldast, ii.

4. *sine personarum acceptione*: see 27 : 18 for the same phrase; also Sexti Decr. lib. v, tit. xii, reg. xii: 'In iudiciis non est acceptio personarum habenda.' It comes from Paul, epist. to Col. iii. 25, and Eph. vi. 9.

7. *Qui facit.* The verses are in the wrong order, for the passage begins, 'Omnis enim, qui male agit.' John iii. 19 may also be noticed, as helping to explain the context: 'Hoc est autem iudicium: quia lux venit in mundum, et dilexerunt homines magis tenebras, quam lucem: erant enim eorum mala opera.'

10. *ne subterfugiendo . . . pervenire.* The way in which the words of this sentence are to be taken is not clear at first sight, but they would appear to make good sense if punctuated with only one comma. The idiom of *ne . . . et* is English rather that Latin, for *ne* governs the two verbs *declarem* and *ostendam*, which are thus balanced: 'lest I declare by avoiding and show that I mistrust,' &c. The main verb *gestio*, which seems to have its classical meaning of ardent desire, as at 38 : 24, governs the rest: *ex intimis scilicet cordis medullis* (from the depth of my heart) must be taken rather awkwardly with *gestio* and not with *ostendam*, for Ockham would hardly give a proof (an accidental proof which he hoped to avoid) *ex intimis*, whereas the phrase suits the verb *gestio* admirably. Again, the only satisfactory reading of *examis* is *examinis*, with approximately the same meaning as *districti* and *iudicii*. These three words may mean 'summons, trial, and judgement', but they are so frequently used that it is hard to be certain whether there is anything implied in their order. The sentence therefore becomes clear if we imagine a break after *ostendam* and take *ad lucem districti examinis et iudicii* as a subphrase followed by *coram iudice competenti* as another.

16. *postquam regulae.* It is not known when Ockham became a Franciscan: no doubt he joined the order at some date during

the second decade of the fourteenth century. He was certainly a Franciscan in 1324, when at Oxford he published his *Quaestiones super primum librum Sententiarum* and became thereby a 'Baccalaureus formatus'.

21. *verum*: might be *utrum* or even *unum*.

Page 2 : 2. *de persona securus*. Ockham had been detained at Avignon during the years 1324 to 1328, when he escaped in May and fled to Pisa. In cap. v of his *Compendium Errorum* he mentions the fate of his friend Bonagratia of Bergamo, imprisoned at Avignon, because he had publicly reproved John XXII for heresy: 'Cuius rei gratia praedictum Fratrem Bonagratia, ipse Iohannes contra iura et iustitiam statim capi fecit, et tetro carcari crudeliter mancipavit, ubi fere per annum integrum absque aliqua causa detinuit et afflixit.' See also a remark in the unpublished part of Nicholaus Minorita (Müller, *Zeitschrift für Kir. Gesch.*, vol. vi, p. 101): 'Magister Thomas de Anglia ordinis Praedicorum, quem tenet adhuc arrestatum et supressum Avenione pro eo quod restitit erroribus et haeresibus ipsius Iohannis' (dated 1338). See 44 : 29.

4. *idcirco*. The MS. reading is far from clear. The first letter is four times as long as the others and at first sight looks like an *s*, or as there is a small horizontal line on the left level with the top line of the writing, like an *l*; though a badly made *p* or *r* is not out of the question. The next three letters resemble three *c*'s or *t*'s, or perhaps a mixture of them, joined at the top: only the last letter is clear, while over the word an *i* has been placed near the end. The first letter must be taken as the same as the initial of *Ioseph* and *Ieronimum* below: thus we get *icc*$^{i}$*co* = *iccirco* = *idcirco*. This helps to prevent a break after *defendendo* and is in itself the strong point of balance in the sentence. *defendendo* will then govern *meam innocentiam* and *cupio deducere* will govern *illa quae imponuntur*. The last part of the sentence is awkward: *ut omnes orthodoxi qui voluerint considerent an illa quae imponuntur a Deo sint.*

6. *nunc mendaciter*. The MS. reading *nō* = *non* is certainly wrong. (1) There would be no point in bringing to public notice charges which were *non mendaciter imposita*: the entire reason for this tract would be void. (2) The charges were *mendaciter imposita*, as can be judged from his resemblance to Joseph, Damasus and Leo, while his innocence is clear by reason of his remark *conscius mihi non sum*. For the same confusion of *nunc* and *non* see 43 : 3.

8. *an a Deo*. This is reminiscent of John vii. 16, 17: 'Mea doctrina non est mea, sed eius, qui misit me. Si quis voluerit voluntatem eius facere; cognoscet de doctrina, utrum ex Deo sit, an ego a me ipso loquar.'

14. *flocci penderem*. The MS. leaves us with an alternative, *flecti re⟨d?⟩derem* or *flocci penderem*: with *flocci* the genitive of *floccus*,

a piece of wool, or *flecti* a passive infinitive. But *flocci penderem*, with a meaning almost identical with *pro nihilo reputarem*, is more likely to be the original reading.

17. *Ioseph, Naboth.* These distinguished persons can hardly be ignored or treated with brevity, for they are men and women in whose experiences Ockham observed some similarity with his own. Any discussion on the outstanding facts of their lives would lead naturally to an explanation of his reasons for citing them. Were all the facts of each career known, the wrong points of connexion might still be emphasized in ignorance, for the true historical view must be of less value here than the mental picture which Ockham himself had formed. On the other hand so little of his own life is known that in a complex case of this kind the arguments must rest upon an ever-widening field of hypothesis. This is therefore a problem which it is as difficult to avoid as to solve, though the attempt may have an interest of its own.

The word *Naboth*, though a conjecture, seems more attractive than the meaningless reading of the MS. *naphet*: see *Dial.* iii, tr. i, lib. i, cap. v, and tr. ii, lib. ii, cap. xxv: and the story of his vineyard in 1 Kings, ch. xxi. Joseph and the many slanders against him are too well known to require comment. Of Pelagia, little can be said. There seem to have been three saints of this name, but this one is probably the virgin saint and martyr, upon whose noble end Chrysostom wrote three or four pages of rambling eulogy (Migne, *Patr. Gr.*, vol. l, p. 579). She is thought to have lived in the time of Diocletian. On trial before a lascivious military tribunal she succeeded by a subterfuge in gaining time, and before her absence was noticed, an apparently miraculous death had intervened to save her. The story of the virtuous Susanna in the Apocrypha is better known and less ambiguous. No Daniel, however, appeared to save Onias. As high priest at Jerusalem and a man of great virtue he was accredited with the prosperity of the city. But a certain Simon fell out with him and by telling the governor Apollonius of the wealth stored in the Temple caused Seleucus the king to send for the treasure. As the money was held in trust for widows and orphans, Onias refused to surrender it, and was therefore robbed by force. When Antiochus succeeded Seleucus, Jason the brother-in-law of Onias sought to supplant him in the office of high priest by promising part of the treasure: and Onias, like Naboth, was treacherously murdered (2 Mac., chs. iii and iv). The Leo in question can hardly have been Leo I, called 'the Great', for his work (A. D. 440 to 461) was eminently successful. Much more to the point is Leo III. Attacked both in person and character he fled to the court of Charles the Great. With an outward show of impartiality Charles defended him in Rome (Nov. 800) by accepting his declaration of innocence on oath. As the charges were made in secret, their nature is not



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known. The grateful pontiff, however, now free from guilt, rewarded his master on the Christmas day following with the imperial crown of the Caesars.

We now turn to consider the slanderous attacks on three ecclesiastics who so greatly helped to give the medieval church her orthodoxy, her discipline, and her Bible. Athanasius, in defending the doctrine that Christ is of the same substance as the Father, had to combat the complete influence of his Arian opponents at the courts of Rome and Constantinople. He was banished on no less than five occasions from his pastoral work in Egypt, where he was accused of plotting to deflect the corn supply. His assassination was also sought by his enemies. How frivolous some of the charges were may be seen from the unexpected reappearance of Arcasius, a Melitan bishop, after Athanasius was supposed to have murdered him. During his periods of exile Athanasius gave help to Pachomius, the first founder of the great monastic movement in the church. He died in 373 (?), one of the greatest of all churchmen. Damasus (pope from 366 to 384) was a much less prominent person, though his contribution to the world has been considerable. The story of his career, though rather lengthy, is roughly as follows. In 355, through the influence of Constantius, the Synod of Milan (where Auxentius ruled) threw over the Athanasian doctrine. Liberius the pope for protesting against the exile of the bishops shared their fate. On his recall he was expected to work with the anti-pope Felix II, a man of orthodox belief but Arian consecration: but the dual papacy ended speedily in the overthrow of Felix. Before his death Liberius had been assisted by two distinguished young men, Damasus and Ursinus. Damasus was elected pope, but as he had shown willingness to work with Felix his election was disputed by the supporters of Ursinus. Though Valentinian I was neutral, the city prefect vigorously espoused the cause of Damasus, with the result that the new church of S. Maria Maggiore, in which Liberius, it is said, had consecrated the first mass of the Nativity on 25 Dec. 354, now sheltered the corpses of more than 130 supporters of Ursinus. Secure from violence, though not from scandal (he was charged with adultery), Damasus proceeded to solidify the ecclesiastical power by obtaining from the emperor a rescript to the effect that priests shall judge their own order: and further, when the Roman Council of 378 found that the imperial officers declined to enforce the sentences of ecclesiastical tribunals, Gratian was persuaded to ratify the disciplinary powers of the Roman See. Damasus is also remembered as the preserver of the catacombs, and in doing so it is suggested that he met the demands of pagan polytheism by heightening the veneration of saints and martyrs. His labours for orthodoxy were not in every case successful, for Auxentius remained at Milan till his death made room for Ambrose to exchange his

helmet for a mitre. During his last two years Damasus enjoyed the assistance of Jerome. This scholar revised the Latin text of the N.T. from the Greek and at the house of Marcella lectured on Hebrew and scripture to widows and virgins. In his tract *Adversus Helvidium* he defended the perpetual virginity of the B:V.M. Through his influence over the widow Paula and her daughter Eustochium the monastic movement begun by Pachomius in Egypt now attracted the female members of the Roman aristocracy. The consequent transference of landed property to the use of monasteries, the undoubted severity of severance from home life and the caustic diatribes of Jerome upon his fellow clerics left him no friend in Rome, when late in 384 Damasus died. Paula and her daughter withdrew to Bethlehem, where Jerome met them and remained. Till his death in 420 he worked at his Latin translation of the Hebrew O.T., attacked to the last by his enemies, who even burnt his monastery down and left him homeless at the age of eighty. In his forty-fifth epistle (Migne, vol. xxii) he denies the charge that he was *probrosus*, *versipellis*, *lubricus*, *mendax*, and adds, 'Omnium paene iudicio dignus summo sacerdotio decernebar.' For this there could be only one reason, 'Nihil mihi aliud obicitur nisi sexus meus et hoc nunquam obicitur nisi cum Ierosolymam Paula proficiscitur.'

Such then is the catalogue of *egregiae personae*, even in its diversity well in keeping with the outlook of Ockham. Two of them are popes and two are women : but Ockham, unlike Marsilius, was not antipapalist on principle, and he almost admitted (*Dial.* i, lib. vi, cap. lxxxv) the equality of women.

The hardest of all to explain is Damasus, whose work for the church as pope could never have appealed to a disbeliever in rigid ecclesiastical discipline. The fact that he was a scholar and an object of scandal is hardly sufficient to connect him here. Possibly the brawl in the church of S. Maria Maggiore, together with some reflexion upon the struggle to effect the peace of the church, was brought home to Ockham by a scene of bloodshed during 1328, either in Rome or Pisa. Yet this year of 1328 may serve to account for his reason in citing some of the others. In May Ockham escaped, with Michael of Cesena, from four years of captivity at Avignon, and reached Pisa in June. This was the turning-point of his career. As with Leo, a few weeks sufficed to change him from a suppliant into a supporter, and Ockham was able, in the year of coronation in Rome, to look to Lewis as Leo had done to Charles. Again, when Ockham calls attention to the hardships of papal imprisonment, he omits to include himself with others, although he does at times mention himself in the third person (*Comp. Err.* cap. v). It is not certain that he was badly treated at Avignon, but it is quite likely that John XXII tried to cajole Ockham and Cesena over the question of evangelical poverty. There is something on the other

hand quite parallel in the refusal of Naboth to surrender to Ahab the vineyard of his fathers (and in the objection of Onias to surrender the trust money of the Temple) to Ockham's own refusal to abandon what he believed to be the true Franciscan tradition. Moreover, the point of quoting the case of Susanna lies not so much in the nature of the temptation (for Ockham's early crime was heresy), but in John XXII as tempter turned accuser. The same applies to Joseph. How then can we introduce Pelagia into the story? The lively sensation of liberty after four years of detention must have remained long in the subconscious mind of Ockham: for he too, no doubt, had escaped by a subterfuge, and the Bulls of John XXII show how much that pope would have given for his recapture.

Jerome and Athanasius, on the other hand, seem best connected with the time of writing this *opusculum*, though as lonely pioneers of the truth they must at all times have evoked a certain sympathy in Ockham. He had lived, like Jerome, so many years in a strange land, Bavaria, cut off from books and learning (*Dial.*, introd. to tr. i of pars iii): he had devoted enormous efforts to literary production: he had failed to finish his *Dialogus*, and now the storm was beginning to break once more. Lewis was being attacked from within the empire, while Ockham had lost by death two friends in Marsilius of Padua and Michael of Cesena. Like Athanasius, he looked out upon a world which had gradually deserted the struggle for the truth. He was *Ockham contra mundum*. His real feeling in both cases was fear, that he would have to meet the fate of Jerome without the strength of Athanasius.

We now turn to the suggestion of this second paragraph, where these names occur, that against Ockham some personal scandals were being urged, which were false (*mendaciter imposita*), and of which he knew nothing (*conscius mihi non sum*). There is no evidence of any charge against him, except that his defending the divorce of Margaret Maultasch and John of Moravia in 1342 is likely to have incurred the additional hatred of Clement VI. It is the custom of men suffering from acute fatigue to interpret universal disapproval in terms of personal motive rather than intellectual disagreement.

To conclude, there must have been reasons for the choice of these characters. They may review his life, as did the last five words of Napoleon: for their meaning we may guess *ad libitum*. Ockham himself, were he to return to earth, might be at as great a loss as ourselves, for a man is not necessarily the best judge of his own psychology. But this much is clear, that running all through this *opusculum* is the idea that his standpoint must be preserved in his struggle to the last against the overwhelming pressure of authority and common opinion, *ne intellectum suum in obsequium captivent*.

**30**. *Cum vos*. The Vulgate has *persequentur* and *ista*.

**Page 3**: **1**. *me subtraho*. This is not likely to have occurred

before 1342, when Michael of Cesena died (Cod. Bavar., 1755, Munich). For Michael persisted till his death in the assertion that he was the true minister general of the Franciscans (Wadding, *Ann. Min.*, iii. 512), and Ockham accepted him as such (*Opus No. Di.*, cap. 1).

5. *in iura.* The *in* is necessary and could easily have dropped out in front of a word which has its first two letters so similar.

13. *quos ultimo retentabo.* Perhaps *retinebo* was intended, but the MS. clearly gives *retentebo*, an impossible form. The Bull 'Ad Conditorem' is discussed at 46 : 26.

14. *ne verbum Dei*: hardly an actual citation, but distinctly reminiscent of 2 Tim. ii. 9, 'sed verbum Dei non est alligatum', as also at 46 : 7.

19. *etiam aliud, forte illud.* As it stands in the MS. the sentence begins : *Vnde et saepe una ratione vel auctoritate et aliud forte illud quod sentio gratia brevitatis communire studebo.* Unfortunately there is no doubt as to the accuracy of any one word more than another. Dismissing the many alternatives that suggest themselves we may take it that *et . . . et* here do not connect, but are in themselves the only obstacle to the meaning of the sentence. Just as at 43 : 3 *et* merely lacked the superscript line to make the sentence intelligible, so here, while the first *et* joins the second sentence to the first, *etiam* introduces the one object of *communire*, i. e. *aliud.* This 'something else' is contrasted with the *quaedam necessaria ad convincendas iniurias* of the previous sentence, and *una* is emphatic because there would be no *brevitas* if Ockham had employed more than one. The words *et . . . etiam . . . forte* lead the way apologetically to the tremendous statement that Ockham proposes frequently to give us his personal opinions, and he would not have been medieval had he not attempted to support them with at least *una ratione vel auctoritate.*

32. *sane intelligenda.* What these two words really mean can only be conjectured. In the MS. a blot or an erasure occurs between them, which has obliterated part of *quamobrem*, and has reached as far as *communiter* below ; *sane ¯tellōā* is all that remains. There is a faint *i* before the *t*, so that *intell* is a reasonably certain beginning for the word, but the rest of it, *ōā*, merely suggests that *am* (which as an accusative is impossible) or *a* must form the ending. The only other suitable word containing *tell* or *cell* is some part of *excellens* ; but this would rob *sane* of its last letter. On the whole *sane intelligenda* will have meaning enough if taken in apposition to *una auctoritas*, though the sentence would have done just as well without them.

Page 4 : 1. *intellectum . . . captivare.* The end of this introductory chapter looks very much like an attempt to justify private interpretation, and there are several other passages in this tract where claims are made for the use of reason at the expense of

authority. It may be noticed, however, that *ratio* and *scripturae sacrae* go together here, as they do in another interesting passage at 44 : 20, where we have the same idea in almost the same words, but in a more connected way : 'ut in eorum obsequium suum intellectum contra rationem et scripturas sacras captivent.' See further note on 26 : 24.

4. *haeresim.* The MS. gives *hes* with an abbreviation mark above, and very indistinctly a short wavy line after the *s* which may stand for *im* : *sapit* = to smack of, as in the famous phrase of Bernard (ep. cxcii, in Migne, vol. clxxxii, p. 358) in speaking of Abelard : 'Cum de Trinitate loquitur, sapit Arium, cum de gratia, sapit Pelagium.' In view of the phrase *ut communiter* below and the reliance on a Biblical quotation (which is not specified and which actually comes from the Apocrypha), Ockham can only mean that he takes the *allegatio multorum* with a pinch of salt, and is here using the language of the schools, where, as Dr. Wicksteed remarks (*Dante and Aquinas*, p. 108), 'a *reductio ad haereticum* is the full equivalent of a *reductio ad absurdum*.' See also 12 : 18, and Marsilius, *Def. Min.*, 11 : 16, where a certain view is *tamquam haereticum fugiendum*. Ockham, however, objects to being called *haereticus* (13 : 27 and 46 : 11), and strangely enough, like Marsilius (*Def. Min.*, 41 : 14), condemns the preaching of heresy (31 : 16), the very crime for which he might have paid the penalty to his enemies, had he not eluded them. The truth is that the church had only one name for the untutored vapourings of the Cathari and the considered criticism of a scholar.

5. *communiter.* This is another careless error in the MS., for after writing *coi* the copyist has added, not the terminal sign for *er* or *ter*, but the terminal sign for *us*, giving so far as one can judge, *communius*. Even when we read *communiter* the sentence is awkward. If *cum* goes both with *esset* and *legatur*, *ut* must form a phrase with *communiter* with the meaning 'as is commonly the case'. On the other hand the phrase *ut in pluribus* at 9 : 7 and 10 : 29 is almost an exact parallel.

6. *unus solus.* From the words *sacris eloquiis* the quotation is clearly Biblical, but there is very little certainty as to which passage is meant. Most probably the reference is to Tobias, who was justified in forsaking the advice of the many : 'Denique cum irent omnes ad vitulos aureos, quos Ieroboam fecerat rex Israel, hic solus fugiebat consortia omnium, sed pergebat in Ierusalem ad templum Domini.'

8. *Dialogo.* This is the great and famous work of Ockham, occupying no less than 560 folio pages in the edition of Goldast. Of the three parts of the *Dialogus*, the first and third consist of questions asked by a Discipulus and answered by a Magister, in whose person Ockham may on most occasions be presumed to speak. The two treatises of the second part, believed by Riezler to have been

written about 1333, are a discussion on points of purely theological interest, in which John XXII's theories concerning the Beatific Vision receive a sweeping denunciation. The seven books of Part I deal with various problems of ecclesiastical politics, as do also the two treatises of Part III. The first and third parts were written about 1342–3, and it is to them that any important reference to the *Dialogus* belongs in this present *opusculum*.

Ockham tells us in the introduction to the third part that he intended to write nine treatises, but only two are given in any manuscript, so far as one can gather. They are (i) 'de potestate papae et cleri': (ii) 'de potestate et iuribus Romani Imperii'. Probably only two treatises were ever written to take this form. In the second treatise there are three books: some of the manuscripts end at chapter 16, while others (and with them the edition of Goldast) go on to chapter 23, but no further.

The seven remaining treatises of Part III are as follows:

(iii) 'de gestis Iohannis XXII': this is probably the *Compendium Errorum Ioh. XXII.*

(iv) 'de gestis Domini Ludovici de Bavaria'.

(v) 'de gestis Benedicti XII': pope from 1334 to 1342: probably this is the *Tractatus ostendens*, &c., MS. Paris Bibl. Nat. 3387.

(vi) 'de gestis Fratris Michaelis de Cesena' (minister general of the Franciscan order till 1330): the *Opus Nonaginta Dierum* (which is very nearly half the size of the whole of the *Dialogus*).

(vii) 'de gestis et doctrina Fratris Geraldis Odonis' (successor of the above: in the opinion of Ockham a poisonous heretic).

(viii) 'de gestis Fratris Guilhelmi de Ockam' (it is a pity that we have no part of this interesting autobiography).

(ix) 'de gestis aliorum Christianorum, regum', etc.

Thus while some parts of the *Dialogus*, Part III, can be fitted into the scheme, others were probably never even begun. The phrase *quem dudum incepi* is significant. One may notice in passing that in pars iii, tr. i, lib. i, cap. ix, the Discipulus remarks, 'De fundamento istius allegationis satis poterit inveniri in quarto tractatu tertiae Partis istius Dialogi', suggesting that Tractatus iv had been at any rate outlined. In April 1343 Joh. Victoriensis knew enough of it to remark: 'Prima tractat . . . tertia de gestis circa fidem altercantium orthodoxam. Qui etiam regulis artis loice subtilissima multorum ingenia occupavit.' See add. note.

Points of actual contact between the *Dialogus* and this work are few and scattered, though the general ideas are the same. The connexion, as far as it exists, is with Part III:

(27 : 6) *quo iure*: tr. i, lib. i, cap. viii: *also* tr. ii, lib. ii, cap. vi.

(7 : 6) *te quidem*: tr. i, lib. i, cap. ix: *also* tr. ii, lib. i, cap. xii.

(33 : 21) *qui filii*: tr. i, lib. i, cap. ix: *also* tr. ii, lib. i, cap xxiii *and* tr. i, lib. i, cap. xv.

(21 : 11) *ubi non est*: tr. i, lib. ii, cap. i: *also* tr. ii, lib. i, cap. i.

(5 : 21) : *scitis quia principes* : all three quotations together in tr. i, lib. i, cap. ix.

On the other hand the *alia opera* contain examples of decided similarity. The *Compendium Errorum*, written between 1335 and 1338, has a verbal parallel in its second chapter with the last two or three sentences of this *opusculum* : see note on 47 : 8. There is also the *Octo Quaestionum Responsiones* of 1339–42, for cap. iv of Qu. iii alone shows the following points :

(18 : 30) *pasce . . . ut non tollas ab eis lac et lanam.*

(19 : 9) *ad aedificationem . . . etiam beatus Petrus nullam potestatem recepit a Christo nisi.*

(13 : 9) *propter bonum subiectorum*
*non ad destructionem iurum et libertatum.*

(16 : 19) *pascite qui est.*

(7 : 23) *ea quae fiunt a iudice si ad eius non.*

(28 : 18) *de excessibus praelatorum cum ad quorumdam.*

(19 : 29) *scitis quia principes gentium.*

(15 : 4) *non omnem potestatem interdicit.*

(19 : 11) *si quis episcopatum.*

As all these passages are from only one chapter of the *Oct. Qu.*, the similarity of argument can hardly have been accidental. Other references to the *alia opera* occur at 10 : 26, 24 : 3, and 43 : 25.

**27.** *autumo* = generally, 'I say', but sometimes, as here, = 'I think'.

**29.** *Tenendum.* The S of the MS. *Senendum* has been partly altered.

**Page 5 : 3.** *ut omnia de iure.* These few lines contain the main thesis of the book. There are certain limits fixed to papal power quite independent of Divine and Natural Law : and it is the purpose of the book to prove this fact and to discover what those limits are. At 8 : 27 Ockham mentions one of the chief points upon which the pope has no power at all, and quotes the remark of Ambrose—'Sola est enim virginitas'. But in the *Dialogus*, pars iii, tr. ii, lib. i, cap. xxiii, the same quotation is included with the argument, 'Non omnia potest sine omni exceptione' : and of this we get a glimpse at 10 : 21, where papal claims to act *generaliter* (and therefore *regulariter*) fail through exceptions, and at 24 : 12, where even obedience to him may be modified by the same principle. It is interesting to note in passing that in this passage of the *Dialogus* the 'magister' enumerates somewhat fully the exact limits of papal power. The more interesting points are roughly as follows. 'Papa non potest (1) sibi substituere sucessorem : (2) cogere infideles suscipere fidem : (3) compellere aliquem intrare religionem : (4) praecipere quod quis servet virginitatem : (5) praecipere aliquid supererogativum : (6) dispensare cum monacho ut habeat proprium : (7) in quocumque voto dispensare : (8) alienare praedia et possessiones ecclesiae : (9) quod quondam non potuit cogere subdiaconos

ad continentiam . . . (14) in temporalibus legitimare (extra 'qui filii sunt legitimi'). Of these opinions Marsilius supports (2), (3), (5), and (7) in his *Def. Minor.*, pp. 18–22. The view, which Ockham gives in *Oct. Qu.* i, cap. xv, 'Papa non est absolutus absque omni exceptione quibuscumque legibus positivis', is strangely enough not discussed here, though it occupies a large place in the thought of Marsilius.

**5.** *refragant*: for which the MS. gives merely *rr$^{a}$nt*, as also at line 30 below. But fortunately all doubt is dispelled by the appearance of its more classical form *refragari* at 44 : 24, written almost in full, and of *irrefragabiliter* at 45 : 6. It has the same meaning as *contradicere*.

**9.** *Nemo militans Deo*: see also at 7 : 4, a favourite quotation with the Imperialists. This is the Vulgate reading, but *Deo* and the arguments based upon it are out of place. Tischendorf says there is very slender authority for *θεῷ*, which in all likelihood was originally a gloss.

**21.** *Scitis quia.* The passage comes word for word from Matthew, the variation in Mark, being merely *erit* for *fit*, as here, 'voluerit fieri maior, erit vester minister'. No portion of Luke appears here, whereas the whole of the passage at 14 : 29 is Luke. There are various repetitions at 15 : 3, 16 : 7, 17 : 12, 17 : 24, 18 : 2, 19 : 21, and 19 : 29.

**Page 6 : 1.** *ipsius.* The strangeness of the MS. reading *ꝯius* is probably due to the omission of the *p*.

**2.** *sicut inferius*: also at line 6. The whole of chapter iii deals with the question of the law of the Gospel.

**9.** *iugum quod.* The verse is, 'Nunc ergo quid tentatis Deum, imponere iugum super cervices discipulorum, quod neque patres nostri, neque nos portare potuimus?' Thus *nos* has become *ipse* and suggests that Peter was already Pope.

**12.** *plura*: required by *quam* below, though the MS. reading much more resembles *plurima*. The reverse may be seen at 25 : 27.

**Page 7 : 5.** *superius allegata*: at 5 : 9, not at 3 : 14.

**5.** *per beatum Petrum.* The gloss and marginal notes on this chapter 'te quidem' do much to explain the difficulty caused by this phrase and by the dative of *beato Clementi papae*. Though the passage cited is called *epistola Clementis*, it was his only in so far as it was *missa ad Clementem*. It would then appear that Clement repeated the advice in an epistle addressed 'ad Iacobum fratrem Domini' (Hierosolymitanum archiepiscopum). The whole problem was debated, but this view of Hugo Teutonicus seems to have been accepted, that Clement had received the advice from his predecessor St. Peter.

**6.** *te quidem*: the first part of Causa xi, qu. i, cap. xxix. The only points of difference are that the text in Friedberg reads *ulla* between *in* and *aliqua* and gives *mundialis* for *mundani*. The end

of this supposed letter of Clement is cited at 22 : 12. Of the three parts of the Decretum of Gratian only the first two are quoted by Ockham in this work. The main divisions in the first part are *Distinctiones*, subdivided into *capitula*: and in the MS. they are indicated by the word *di.* together with the chapter heading. On the other hand the second part of the Decretum is divided into *Causae* and each *Causa* into its various *quaestiones*, generally about three or four, and each *quaestio* into any number of *capitula.* For quotations to the second part the MS. omits the word *Causa* and the chapter number, but gives the chapter heading: thus xi, qu. i 'te quidem' is the normal formula. When a large *C* precedes the quotation it refers, as at 30 : 28, to the Codex of Justinian. With regard to the text, Roman numerals, as they have been generally employed, have been retained solely in connexion with quotations from Canon Law. References to the text of the Decretum of Gratian and his successors are to the edition of Friedberg (Leipzig, 1922) and all glosses that find a place in these notes are to be seen in the three volumes of Democharis (Paris, 1561), whereas the glosses on Civil Law come from the *Corpus Iuris Civilis Iustinianei, cum commentariis Accursii,* &c. (Orleans, 1625).

13. *beatus Bernardus.* The passage comes from his *De Consideratione*, lib. i, cap. vi (Migne, vol. clxxxii, p. 736), with two variations—*Ergo in—quoniam propter illa, et*: and omits *est.*

21. *ab imperatore.* Marsilius is also insistent upon this point in stating (*Def. Min.*, end of cap. i) that the pope and clergy may never enforce decisions upon any one, *nisi eisdem ab humano legislatore talis fuerit iurisdictio sic concessa.* This argument renders null and void all political acts of the pope. Marsilius goes even farther than Ockham, for *in defectu principum* the authority for civil government must rest with the merchants and labourers, among whom the clergy may exercise their vote, not as clerics, but as enfranchised citizens.

25. '*ea quae*' *libro vi.* At first sight the words *libro vi* are likely to confuse, in view of the fact that the quotation, in the list at the end, is called Sext. Decr. lib. v : but they are essential. To the works of Gratian, a book of three parts, another volume was added by Gregory IX consisting of five books. When Boniface VIII wished to add still another, he decided to call it the 'Sext' or sixth book, itself divided into five books : so that this quotation comes from lib. v, Sexti Decretalium, tit. xii, reg. xxvi. Regula xlvi is similarly quoted at 33 : 2. Had Ockham written merely *extra de regulis iuris* '*ea quae*' without *libro vi*, he would have used a formula for the *regulae iuris* of Gregory : see 31 : 11, where *extra de regulis iuris* '*estote*' refers to Greg. lib. v, tit. xli, reg. ii.

**Page 8 : 5,** *veteri* : a strange ablative.

7. "*legem perfectam libertatis.* There seems to be no good reason for the genitive of *perfectae*, the MS. reading, though we find

the same easy slip in the *Dialogus*, pars iii, tit. i, lib. i, cap. v. It is a part of verse 25, 'Qui autem perspexerit in legem perfectam libertatis, et permanserit in ea, non auditor obliviosus factus, sed factor operis: hic beatus in facto suo erit.' Nothing is said by Sabatier which could excuse or explain the genitive, while the text in Tischendorf is clearness itself: '*ὁ δὲ παρακύψας εἰς νόμον τέλειον τὸν τῆς ἐλευθερίας*.' Ockham repeatedly refers to this *lex evangelica* or *lex perfecta libertatis*, as at 22 : 31.

8. *ad Galatos 5 dicens, Vos.* The MS. would appear to read *ad gal·e·d·vos.* If *d·* here represents *dicens* as it does at 9 : 30, the *e*, having a faint loop towards the left below the line, must be the figure *4*, while above it is an almost imperceptible sign for *5*. The Vulgate has, 'vos enim in libertatem'. The copyist evidently omitted the short abbreviation mark over the final *e* of *libertatem.*

11. *quae sunt*: probably refers to verse 19 of the same chapter: 'Manifesta sunt autem opera carnis'.

13. *Augustinus . . . distinctione xii.* The second half of Dist. xii, cap. xii contains the passage quoted with slight variations: it reads *paucissimis et manifestissimis*; places *adeo* after *liberam* and not after *premunt*; and gives *cognoverint*, which must be accepted in place of the MS. reading *cognoveritis*. For a similar error in verb endings see *committitur* at 30 : 23. The epistle itself is 'Ad Inquisitiones Ianuarii, liber secundus', or 'Epistola lv', cap. xix (Migne, vol. xxxiii, p. 221) with the variants *paucissimis et manifestissimis celebrationum* as above : *adeo* is omitted and the following words will be seen to differ, *libertatis non agnoverunt, legalibus tamen sarcinis.* This same quotation from Augustine in Dist. xii 'omnia' with its special reference to the *lex perfecta libertatis* may be seen in the *Dialogus*, pars iii, tr. i, lib. i, cap. v, where Ockham adds, 'Si enim hoc esset, omnes Christiani essent servi: et nullus esset liberae conditionis, omnes enim essent servi summi Pontificis, et summus Pontifex tantam potestatem in temporalibus haberet super Imperatorem et reges et principes et laicos universos ac omnes omnino Christianos . . . ita quod Papa libere posset privare reges et principes ac omnes alios Christianos regnis et omnibus rebus: reges et principes quibuscumque aliis subdere et constituere eos servos ipsorum.' Compare passages at 5 : 32 and 24 : 13. Again in his Tract on Divorce near the end Ockham remarks: 'Si enim talem haberet plenitudinem potestatis, qualem sedem Apostolicam occupantes sibi damnabiliter usurpa⟨ve⟩runt, et quam plures adulatorie et erronee sibi tribuere moliuntur: omnes mortales essent servi summi Pontificis secundum distributissimam acceptionem vocabuli servi: quod libertati evangelicae legis . . . apertius adversatur.' With this Marsilius agrees (*Def. Min.*, 29 : 8): 'Sic enim civiles reges principum et populorum omnes essent otiosi: sic etiam sacerdotes unum quemque singularem et communitatem temporaliter et civiliter sibi subicere possent.'

27. *Ambrosii . . . 'integritas'*. Causa xxxii, quaest. i, cap. xiii has: 'Integritas corporis expetenda a nobis est, quam ego pro consilio suadeo, non pro imperio praecipio. Sola est enim virginitas, quae suaderi potest, imperari non potest: res magis est voti, quam praecepti.' Except for the word *vobis* for *a nobis*, and *voti est* for *est voti*, the passage in his *Exhortatio Virginitatis*, cap. iii (Migne, vol. xvi, p. 341) is the same. These two quotations thus established, it is easy to correct two errors in the MS. which reads *legitur xxii* instead of *legitur xxxii* and which, as will be seen from the footnote, gives the equivalent for *non potest nec potest res magis esse voti*. The words *nec potest*, which reverse the original meaning, may well have been a *non potest* written a second time, with *esse* as an emendation to suit the verb thus introduced.

Page 9: 11. *Religio Christiana*: a sententious remark which one would like to locate. No such statement appears in the commentary of Ambrose on Titus or the Corinthians: nor again in some passages in Augustine where it would be likely to occur. In *Oct. Qu.* ii, cap. vii it is ascribed to 1 Cor. vii: 'Quia enim religio Christiana neminem privat iure suo, ut dicit Ambro. . . . et fundatur in dicto apostoli, qui primae ad Cor. 7 ait, *unusquisque . . . curae*. Ex quibus verbis colligitur, quod religio Christiana servos infidelium a servitute non liberat, *ne . . . blasphemetur*, ut dicit Apostolus 1 Tim. 6.'

18. *quod dedit*: reminiscent of John vi. 38: 'Quia descendi de caelo, non ut faciam voluntatem meam, sed voluntatem eius, qui misit me. Haec est autem voluntas eius, qui misit me, Patris: ut omne, quod dedit mihi, non perdam ex eo.'

19. *teste beato Augustino*: from his *In Ioannis Evangelium*, tractatus cxv, cap. xviii (Migne, vol. xxxv, p. 1939), where the following variants occur: *Audite ergo—regna terrena*—omits *quia—infantes, ut ad eum mors perveniret, occidit*. The passage in John is xviii. 36. Ockham quotes this also in his *Compendium Errorum*, cap. vi: 'Decimus octavus error est quod Christus inquantum homo mortalis fuit rex habens regni dominum temporale': and continues with the quotations, 'Regnum meum', &c., and 'Audite Iudaei et gentes', &c.

27. *timens . . . ut*: with the meaning 'fearing lest': and at 10: 1 *expavit ne . . . privaretur* with the same meaning.

29. *beatus Leo*: from Sermo xxxi, *In solemnitate Epiphaniae* (Migne, vol liv, p. 236). *Herodes vero—stultae emulationis*, but otherwise correct. The words in brackets are not to be found in Leo.

Page 10: 2. *paulum post*. The MS. gives the equivalent of *perum* or *parum*: but *paulum* is required, and may have been intended, for the weakness of the copyist for unconventional beginnings may be seen four lines below in *prat* = *praestat*.

7. *Chrysostomus ait*. From *ait* to the end of the paragraph we

have a passage which seems at first sight likely to be difficult, for we can read either *prout* or *Christus*, *cavit* or *canit*, and take *ecclesia* in more than one way. Everything, however, becomes clear when we end the Chrysostom quotation at *praelatione*. Now in his *Opus Nonaginta Dierum*, cap. xciii, Ockham says: 'Hoc etiam testatur Chrysostomus super illud, *regnum meum non est hinc*, dicens, *Non privat mundum a sua providentia et praelatione: sed ostendit regnum suum non esse humanum neque temporale*: and continues with Augustine, *Audite Iudaei*, and Leo, *Herodes vero audiens*. The passage is clearly from the *In Iohannem Hom.* lxxxiii, the text in Migne (*Patr. Graeca*, vol. lix, p. 453) being: 'Οὕτω καὶ τὴν Βασιλείαν οὔ φησιν ἐντεῦθεν εἶναι, οὐ τὸν κόσμον ἀποστερῶν αὐτοῦ τῆς προνοίας καὶ τῆς ἐπιστασίας, ἀλλὰ δεικνὺς, ὅπερ ἔφην, οὐκ οὖσαν ἀνθρωπίνην οὐδὲ ἐπίκηρον. (Sic et regnum suum dicit non hinc esse, non mundum privans providentia sua et imperio suo, sed ostendens, ut dixi, non humanum vel fluxum esse.)' The translation in Montfaucon (vol. viii, p. 496) gives 'privans imperio suo, sed'. Thus *prelatione* represents *imperio*, and forms the last word of the Chrysostom quotation.

9. *Hostis Herodes*. When in his *Oct. Qu.* ii, cap. v, Ockham quotes the passage from Leo above, he continues with the last two lines of a verse from Ambrose to the same effect. Michael of Cesena refers to the hymn in exactly the same way (Goldast, p. 1348) 'Beatus Ambrosius in hymno Epiphaniae, qui cantatur in ecclesia, dicit, "Non arripit", &c. In cap. xcv of his *Opus Non. Di.* Ockham gives the whole.

'Hostis Herodes impie--Christum venisse quid times—Non arripit mortalia—qui regna dat caelestia.'

The author of this passage was not Ambrose but Coelius Sedulius (*floruit* 430–50) who wrote an alphabetical hymn (Migne, vol. xix, p. 763). This is verse H, which together with I, L, N is sung to-day and has its English counterpart in 'How vain the cruel Herod's fear!' (*Hymns A. and M.*, no. 75).

24. *glossa . . . 'sua nobis'*. In gloss *a* on Greg. lib. ii, tit. xxviii, cap. lxv on the words *tertio appellare* we read, 'Verbum enim generale saepe restringitur'. Also gloss *l* on Greg. lib. iv, tit. viii, cap. ii. Compare gloss *d* on Causa xvi, quaest. i, cap. lxviii 'quoniam quidquid' on the word *divinis*: 'Notat generalem sermonem non generaliter intelligendum'. And again, after gloss *g* on dist. lxxv 'quod die', 'Ex hoc colligitur quod generalis sermo non accipitur generaliter'.

30. *quae licet . . . iniungere*: a difficult passage, because the MS. readings are in some cases capable of more than one interpretation—*quae licet* or *quaelibet*—punctuation after *suadere* or *culpa*—*comparari* or *operari*—*valet* or *videlicet*. The first alternative in each case has been accepted on the following argument. The MS. reading *ql3* is not likely to be *quaelibet* in view of the instance

at 1 : 3 of *cuilī = cuilibet.* If *licet* is the true reading it will be necessary to make *valet* a subjunctive, as in the phrase *licet valeat* at 12 : 26, and more clearly still at 23 : 27 in *licet valeat suadere.* Though *sine culpa* would go well with *suadere*, the word *tamen* creates a break which it is better to place after *suadere*, for obviously there can be no fault in using persuasion. Leaving the passage *scilicet . . . comparari* as an explanatory parenthesis we find *nulli Christiano* governed by *iniungere*, but nothing to account for the infinitive. Certainly the reading *videlicet sub distinctione praecepti* makes excellent sense in conjunction with the relative clause *qui . . . obligavit.* It is better, however, to regard *obligavit* as being separated in sense from the words following it and to read *valet*, with *sub distinctione praecepti* as an explanation or extension of the idea in *iniungere.* The sentence, with the single addition of the letter *a*, will thus run smoothly : main clause *supererogatoria debent* followed by a relative clause *quae licet iniungere*, with *papa* as subject and *quae* as object throughout, and divided into two parts, *licet valeat suadere* and *sine culpa nulli Christiano valet iniungere.*

**Page 11 : 3.** *quae necessitati.* For a similar idea see 23 : 16. Also compare *Oct. Qu.* iii, cap. iv, 'casum necessitatis et utilitatis, quae necessitati comparari valet'.

11. *tamquam a non iudice.* The word *tamquam* here can only mean 'on the ground that', as in Tacitus : the position of *non* is also worth noticing, as an adverb qualifying a noun.

15. *propter reverentiam.* It is possible that Ockham was here thinking of *Extrav. comm.*, lib. i, tit. vii, where Boniface VIII begins : 'Debent superioribus suis reverentiam subditi, et, dum salubriter ab eis pro culpis correctionem velut curantium medicamenta recipiunt, obedientia exhibere tenentur . . . sed, ne sit episcopus onerosus, decernimus', &c.

22. *palea* = straw (?) : see Isaiah, xi. 7 : 'et leo quasi bos comedet paleas'.

33. *xxii quaestione.* This chapter heading 'de forma', i. e. Causa xxii, qu. v, cap. xviii, is quoted again a little farther down, chiefly on the point *faciat ei difficile.* It begins, 'De forma fidelitatis . . . qui domino suo fidelitatem iurat, ista sex in memoria semper habere debet : incolume, tutum, honestum, utile, facile, possibile. . . . Facile vel possibile, ne id bonum, quod dominus suus facere leviter poterat, faciat ei difficile, neve id, quod possibile erat, reddat ei impossibile. . . . Dominus quoque fideli suo in his omnibus vicem reddere debet.' It will thus be seen that the words *ne . . . difficile*, except *vel papa*, are a quotation. In Dist. xcv, cap. vii 'esto' beginning 'Esto subiectus pontifici tuo, et quasi animae parentem ama', Jerome dilates solely on the necessity for a policy of mutual respect between bishops and priests.

**Page 12 : 15.** *legem.* The MS. *legis* is obviously wrong.

**20.** *commodum* : see quotation from Aquinas in note on 15 : 30.

**Page 13 : 3.** *Pasce oves* : also at 19 : 2.

**12.** *post dicetur* : at 15 : 15. The whole of the sentence from *vocandus* onwards requires careful handling, for without punctuation it has hardly any meaning. The *principatus papalis* of line 8 above forms the subject of two main verbs thus—(1) *in quo assimilatur*, (2) *in quo superat*. The apparent difficulty of *maxime . . . plus quam* and *de facto nobilissimo modo* disappears if we place a break in the sense after *assimilatur* and after *facto*. Thus *plus . . . facto* qualifies *maxime* ; in the same way *qui . . . homines institutus* explains *principatus regalis*. In order to connect *nobilissimo modo* with the rest of the sentence we must regard them as a dative to *assimilatur*, with *principatus regalis* as a genitive. There then appears a contrast between the practical and the theoretical, between the *principatus saecularis institutus de facto* and the *principatus regalis nunquam institutus*. Ockham means that the *principatus pure regalis*, i. e. the rule over perfectly free citizens, has never been established, but in this world must be *mixtus*, as he explains at 15 : 31. The almost hopeless obscurity of style in these few lines is further complicated by a double negative after *nunquam* : *nec . . . nec* must be translated as *aut . . . aut*. Luther spoke no more than the truth when he said (*Tischreden*, 1912, Weimar, bd. ii, p. 516) : 'Occam, magister meus, summus fuit dialecticus, sed gratiam non habuit loquendi.'

**16.** *alios principatus* : see note below on line 19.

**17.** *ex* ; needed for the ablative *praescriptis* : cf. 7 : 28.

**19.** *reges principes*. The MS. not only gives *alios principatus* between these two words, but also makes *alios* the beginning of a fresh paragraph. But there can be no break in the sense, for *imperatores reges* would lack a main verb, and no meaning could be given to the accusative *alios*. The removal of *alios principatus* eliminates all the difficulty. An ordinary explanation of their presence would be that they had crept in from a careless marginal gloss, but without much doubt they belong to the last sentence of Chapter VI above, *in quo superat dignitate omnes alios principatus*. These last two words, written underneath *dignitate omnes*, formed the end of the line *sane . . . reges* and had a paragraph mark placed on the left of the *a*, curling over the full length of both words. The *a* here is fairly large, but not a half capital, as in all other paragraphs beginning with this letter. Perhaps the curved line on the left side of *alios* (intended no doubt to show that the words *alios principatus* belonged to the line above) was interpreted as a sign that the paragraph mark was required : at any rate the curved line is now all but obliterated by the straight down-stroke under the paragraph mark.

**21.** *dispendium* : 'loss or ruin', better perhaps than the other meaning given by Du Cange, *circuitus* or *ambages*.

22. *iurum*. The form *iurium*, clearly given in the MS. and abounding in all the works of Ockham printed by Goldast, has no grammatical justification.

23. *excommunicationes*. Marsilius is equally critical of excommunication, not merely because it robs the sinner of the benefits of Divine service and drives him farther into sin (*Def. Min.* 26 : 22), but because it cuts the sinner off from the other citizens politically and in the end, for economic reasons, does more harm to the *non criminosos fideles* than to the delinquent himself (*Def. Min.* 50 : 35). He also denounces interdicts, for he remarks (*Def. Min.* 27 : 11), 'De interdictis vero factis communitatibus per Christum aut apostolos, in scriptura non memini me legisse neque id per scripturam sacram sacerdotibus convenire, sed oppositum magis.' In fact (*Def. Min.* 29 : 23) a bishop or priest who refuses doctrine such as the celebration of mass or a sermon is guilty of mortal sin. See also citation at 40 : 6.

**Page 14** : 14. *unum principem*. Most of the thesis of Marsilius is based on the conviction that the interference of the pope in the affairs of the empire had been responsible for the strife and warfare of his time ; for he argues that the *legislator humanus* must resume the lawful powers which the Church had usurped. It is unfortunate that the empire to which Ockham and Marsilius looked for help was so placed that it required more support than it could give. Sigismund was a failure ; and Charles V, the next emperor to be seriously concerned with these affairs, sided with the Church. Yet the principle of Ockham and Marsilius was vindicated by the reformers, whose reliance on the 'mighty prince' was their only salvation. See also passage at 36 : 6.

29. *Reges gentium*. This is correct and comes entirely from Luke. There is one interesting point. The MS. here and at 17 : 24 reads *iunior*, which in any case could only be distinguished from *minor* by two dots instead of one. Sabatier (*Bibl. Sacr.* iii) in a note on this verse remarks : 'In MSS. S. Germ. 2. et S. Mart. Turon. legitur *iunior*, non *minor*.'

**Page 15** : 4. *non omnem*. Here we seem to have a contradiction of the opinion of Bernard at 17 : 14, *apostolis interdicitur dominatus*. One can hardly guess who the *aliqui male intelligentes* are, though they were probably contemporaries on the side of Lewis of Bavaria. As Marsilius certainly denied the Church any exercise of *dominatus*, this may be a criticism upon him, for if he admits any *praelatio*, if any apostle (St. Peter for instance) could claim to be *primus licite*, that *prioritas* depended on a voluntary acceptance. See his citation of Anacletus, *Def. Min.* 33 : 36 ; also Gratian, Dist. xxi, cap. ii. In his handling of the constitution of the Church Ockham is more conservative than Marsilius.

9. *alias*. The MS. gives $a^{ia}s$ = *aliquis*, as at 21 : 15 and 23 : 1, in mistake for $a^{ia}s$ = *alias*, as at 11 : 30 and 39 : 27.

10. *inter eos esse.* Though the MS. reads *inter esse eos esse* there can be no doubt that the first *esse*, under which two dots have been placed, is a case of dittography.

13. *despoticus.* The MS. gives *desposítus* in full, in place of the obvious *despoticus.* In the margin there are the words *despotica dominatio* faintly written. According to Du Cange there seems to be some authority for the form *dispositus* = *despoticus*: but as we read in *Dialogus* iii, tr. i, lib. ii, cap. iii, 'principatus despoticus est principatus dominativus', this emended reading *despoticus* may stand: cf. footnotes on 14: 22 and the line 32 below.

14. *in Politicis.* Ockham may have been thinking of the passage in the *Politics*, Book I, beginning of ch. vii, where Aristotle says: '*Φανερὸν δὲ καὶ ἐκ τούτων, ὅτι οὐ ταὐτόν ἐστι δεσποτεία καὶ πολιτικὴ*'. The translation (Du Val, Paris, 1629, vol. ii) continues farther on, 'civilis enim principatus est liberorum natura: herile imperium vero servorum . . . civilis principatus autem liberorum et aequalium est.' The force of *despoticus* and the rule over slaves, which it connotes, stands out more clearly in a phrase in the *Ethics*, Book VIII, ch. xii: '*Τυραννικὴ δὲ καὶ ἡ δεσπότου πρὸς δούλους.*' The further quotation at 15: 22, which gives in a more accurate form the ideas expressed a few lines above, occurs in ch. v of Book I of the *Politics*: '*Καὶ εἴδη πολλὰ καὶ ἀρχόντων καὶ ἀρχομένων ἐστίν, καὶ ἀεὶ βελτίων ἡ ἀρχὴ ἡ τῶν βελτιόνων ἀρχομένων, οἷον ἀνθρώπου, ἢ θηρίου*', which is translated in Du Val thus: 'semperque id melius imperium est, quod obtinetur in res imperio subiectas meliores ac praestantiores: verbi gratia, melius est imperium in hominem quam in feram.' These quotations are evidently second hand, or from memory, a fact corroborated by their general looseness in *Oct. Qu.* iii, cap. v: 'Ad quod etiam probandum videtur sufficere ratio Aristoteles *primo* Politicae, qua probare conatur quod melior est principatus qui est meliorum subditorum: sicut melior est principatus liberorum quam servorum: quia melior est principatus hominum quam bestiarum, liberi autem sunt meliores quam servi, quare principatus servorum non est optimus iudicandus.' The last two lines of the paragraph do not appear in or near these passages even in idea, whereas we read towards the end of ch. v of *Politics*, Book I: 'Et vero servorum et animantium mutarum (*sic*) usus parum admodum inter se differt.' Ockham may have obtained the notion from some gloss which would naturally attempt to draw a distinction between the power of a master over *servi* and *bestiae.* On the other hand Roman Law clearly states that theoretically, though not often in practice, masters have the power of life and death over slaves: cf. Gaius, i. 52: 'In potestate itaque sunt servi dominorum. Quae quidem potestas iuris gentium est: nam apud omnes peraeque gentes animadvertere possumus dominis in servos vitae necisque potestatem esse.'

30. *pure regalis.* That royal power had a contractual basis was

a common medieval belief: witness the coronation oath of Henry Beauclerc, the struggle against John, and the deposition of Edward II. The king ruled *in bonum commune* and not as the tyrant of a Greek city. Thus Ockham's point is that the pope has no powers beyond those of an ordinary king, for anything over and above them would be a tyranny. Again, in his *Oct. Qu.* ii, cap. vii, he goes farther in saying: 'Rex enim superior est toto regno: et tamen in casu est inferior regno: quia in casu necessitatis potest regem deponere et in castro detinere, hoc enim habetur ex iure naturali, sicut ex iure naturali habetur quod vim vi repellere licet.' So also Aquinas, *De Reg. Prin.*, lib. i, cap. i, says: 'Ex quo manifeste ostenditur, quod de ratione regis, est quod sit unus qui praesit, et quod sit pastor commune multitudinis bonum et non suum commodum quaerens': and at the end, 'rex . . . propter bonum commune regit', a view clearly assumed by Ockham, as can be gathered from his remark in *Oct. Qu.* i, cap. vi, 'principatus Apostolicus sive spiritualis non minus respicit fidelium utilitatem subditorum, quam principatus saecularis.'

**Page 16: 2.** *Regum 8.* A genitive is clearly required. The reference is more or less to the whole of chapter viii of Samuel, the first book of Kings. Samuel is asked, ver. 5, 'Constitue nobis regem, ut iudicet nos, sicut et universae habent nationes.' The *mala intentio* becomes clear at v. 20, when the Israelites in accepting a king said, 'et erimus nos quoque sicut omnes gentes: et iudicabit nos rex noster, et egredietur ante nos, et pugnabit bella nostra pro nobis.' Verses 10 to 18 explain *in multis servi.* Again, in *Oct. Qu.* v, cap. vi, Ockham, in citing this passage, remarks that there are two ways in which a monarchy can be established—divine and human. The divine way is shown by Samuel. The human has three divisions, for a king may be set up (1) *per voluntatem populi*; (2) *per imperatorem*; (3) *per acquirentem plenum dominium super regionem.*

**7.** *Vos autem*: a continuation of *Reges gentium* above at 15: 27.

**18.** *scripsit, dicens, Pascite.* The Vulgate has *dominantes in cleris*, and continues *sed forma facti gregis ex animo*: see below at 17: 9, where it is again given. In the MS. two words have two dots written below a superfluous *eis* between *scripsit* and *dicens*, and below *dni* without an abbreviation mark for *Dei.*

**24.** *beatus Bernardus.* The two extensive citations from St. Bernard are fairly accurate, so that it will be unnecessary to give them in full. Particular points of difference will be noticed in turn. The passage comes from the *De Consideratione*, lib. ii, cap. vi (Migne, vol. clxxxii, p. 748).

**29.** *quid aliud.* The text of Migne places *tibi* between these two words and not after *dimisit*, and inserts *inquit* in the line below after *habeo.*

**Page 17: 2.** *quantum.* Migne reads *quidem, quod ad.*

6. *vendices*: Italian spelling for *vindices*, given by Migne. Migne also omits *sed* in the line below.

11. *in evangelio*. Migne places *est* before these words, not after. This is the Luke quotation again, as at 14 : 29.

14. *apostolis interdicitur*: a very popular quotation. See Marsilius, *Def. Min.*, 43 : 2; Gregorius Heimburgensis, *Appellatio Prima* in the *Antilogia Papae*, Basiliae, 1555, p. 549; and Wyclif, in the *Fasc. Ziz.*, p. 259.

15. *I igitur tu . . . aude*. The MS. has 'Igitur tu et tibi usurpare audes', whereas the text of Bernard contains two imperatives, as well as other variants: 'I ergo tu, et tibi usurpare aude aut dominans apostolatum aut apostolicus. . . . Plane ab alterutro,' &c. It is easy to see how (1) *ergo* became *igitur*, there being in some cases hardly any difference between $\overset{o}{g}$ and $\overset{o}{g}$, and how (2) the word *I* could be overlooked. For *dominans* see textual footnote on line 16.

20. *Ipsi regnaverunt*: from Hosea viii. 4. The Vulgate has neither *ego* nor *eos*. It is possible that *eos* represents *ose*, which appears in Bernard after *cognovi* to mark the author quoted.

21. *Iam si regnare . . . iuvat*. The MS. again shows a certain carelessness in writing *iam si si regnare sine Deo vivat*. The last word is clearly written *vivat*, but it differs from *iuvat* hardly at all.

23. *habemus*. Migne reads *tenemus*. For the MS. reading *iunior* for *minor* see note on 14 : 32. Migne also reads *iunior*.

29. *principatu ministrativo*. Between these two words the MS. reads *dominativo*, which is quite out of place, as is shown by the general argument. The copyist probably forgot to delete it.

31. *Quae . . . commendatur*. Migne reads simply *Quae et commendatur*, so that the words *scilicet ministratio* are merely explanatory, introduced into the quotation because of the break in it at line 26 above.

Page 18 : 2. *Ego autem*: part of verse 27 of Luke xxii given at 15 : 1.

5. *beatus Bernardus*. This, the third quotation from Bernard, itself begins with two quotations; and it comes from his *De Consideratione*, lib. iii, cap. i (Migne, vol. clxxxii, p. 758) with a few variations.

7. *Nimis confortatus*: correctly quoted from Psalm cxxxviii. 17, but the second part of the quotation, from Psalm xliv. 17, now reads *constitues eos* in the Vulgate, for which *constituti sunt* is a strange variation, with regard to which Sabatier has no reason or explanation to offer.

10. *contingat*. Migne, *contingit*: and *illos, id sobria*.

12. *per omnem*. Several small difficulties beset this sentence. Migne reads: 'Non enim per omnem reor modum sed sane quodam tenus dispensatio tibi super illud,' &c. Now *per* certainly must be restored, while there is no reason to remove *ut* if *ut reor* is

taken as a parenthesis in the simple sentence *non per omnem dispensatio credita est.* On the other hand the textual foot-note will show what bare indications have been given of the words that lie between *tenus* and *credita*. The first of them would seem to be the sign usually employed for *ubi*, but as the only excuse for the presence of the three words after *tenus* in this text is parenthetical emphasis, *ut* is the only possible reading that makes sense. Lastly, it is difficult to decide between the *illum* of this MS. and the *illud* given by Migne. The latter probably refers to *haereditas*, but as it is just possible that the former refers to *orbis*, the word in apposition to *haereditas*, it may be retained.

15. *postea.* This reading of $p^{9}ea$ helps to corroborate the reading at 13 : 12.

18. *Ita et tu praesis.* Migne continues *ut provideas, ut consulas, ut procures, ut serves.*

21. *Ut des*: from Psalm ciii. 27 : 'Omnia a te expectant ut des illis escam in tempore.'

23. *Fac hoc.* In Migne the order is reversed and *hominum* is read for *hominibus.*

28. *per monitionem . . . personae.* The words *monitionem* and *personae* are probably right, though for the first we have only *mocom* and for the second the possible equivalent of *parte.* The words thus extracted suit the sense of the previous argument, in which Bernard is represented as advising (*monitio*) Eugenius not to act in his own interests (*persona*) but to regard the universal church as the sole province of his care (*sollicitudo*). See 23 : 13 on *sollicitudo.*

31. *Tonde oves*: see also 13 : 3. There is a similar kind of argument in the *Defensor Minor*, 19 : 25, where Christ is imagined as reproving those who preferred a visit to distant tombs of saints to duties nearer home: He would never have complained to them, 'Romae fui vel in Ierusalem, et non visitastis me.'

Page 19 : 5. *accepit potestatem.* Between these words a marginal note in the MS. suggests the insertion of the word *ecclesia.* This indicates that the reader took $pp^{a}$ for *propterea* as it must be taken at 37 : 14. The difference in reading is hardly of any moment, except that *papa* is possibly more in line with an argument which is dealing with the office and duties of a bishop.

7. *ad Corinthios . . . ultimo.* At 2 Cor. x. 8 Paul says 'Nam, et si amplius aliquid gloriatus fuero de potestate nostra, quam dedit nobis Dominus in aedificationem, et non in destructionem vestram: non erubescam': and at 2 Cor. xiii. 10 we read, 'Ideo haec absens scribo, ut non praesens durius agam secundum potestatem, quam Dominus dedit mihi in aedificationem, et non in destructionem.' The MS. reading *X et ultimo* leaves no doubt, and perhaps Ockham meant to refer to both passages, but as a rule the words *et ultimo* are added to what is actually the last chapter of a book.

11. *dicit beatus Augustinus.* This rather difficult comment on 1 Tim. iii. 1 forms the beginning of Causa viii, qu. i, cap. xi, and comes from the *De Civitate Dei*, lib. xix, cap. xix (Migne, vol. xli, p. 647). The words *scilicet apostolis* do not appear in Gratian, and after *intelligat non* the omission of the word *se* must be rectified: the omission of *illis, quibus praeficitur* between *praeficitur* and *superintendit*, no doubt an error, is less serious and more excusable by reason of its similarity. The meaning of *scopos quippe intentio est* becomes clear from the actual words of Augustine, who, after *gerens*, continues with a definition by derivation of the word ἐπίσκοπος: 'ἐπί quippe, Super; σκοπός vero, Intentio est: ergo ἐπισκοπεῖν si velimus, latine Superintendere possumus dicere.' The *editio Romana* of Gratian, according to Friedberg, has emended the apparent omission of *ἐπί quippe, Super*, but these words are also omitted in Dist. xxi, cap. i, § vii, which says, 'Episcopatus autem vocabulum inde dictum est, quod ille, qui episcopus efficitur, superintendat, curam scilicet subditorum gerens: Σκοπεῖν enim graece, latine intendere dicitur.' Thus the reading as we have it here will stand.

21. *Hinc Chrysostomus.* In his *Opus Imperfectum in Matthaeum*, hom. xxxvi (Montfaucon, vol. vi, p. cliii) the passage runs: 'Quoniam principes mundi ideo fiunt, ut dominentur minoribus suis, ut servificent eos, et spolient eos, et comedant, et usque ad mortem abutantur vita eorum ad suas utilitates et glorias. Principes autem ecclesiae fiunt, ut serviant minoribus suis et ministrent eis quaecumque acceperunt a Christo, ut suas utilitates negligant, et illorum procurent.' Thus *fiunt* after *solo* (see foot note) must be restored.

29. *Hinc Orieines.* In his *Comment. in Matthaeum*, tomus xvi (Migne, *Patr. Graeca*, vol. xiii, p. 1390) the *vetus interpretatio* runs thus (except for the words in italics, which do not occur in this text): 'Iesus autem convocans eos dixit: (*a*) Scitis quia principes gentium dominantur . . . (*b*) Principes gentium non contenti tantum regere suos subiectos, violenter eis dominari nituntur. Inter vos autem qui estis mei, non erunt haec, *ne forte qui videntur habere aliquem in Ecclesia principatum, dominentur fratribus propriis, vel potestatem in eos exerceant.* Quoniam sicut omnia carnalia in necessitate sunt posita, (*c*) *non in voluntate*; spiritualia autem in voluntate, (*d*) *non in necessitate*, sic et principes spirituales, principatus eorum in dilectione subiectorum debet esse positus, non in timore *corporali*.' Several points of doubt arise. Between *subiectos* and *violenter* the word *sed*, inserted by a later hand, must be rejected. At the same time it suggests that something is wrong with the line above, that either *Scitis quia* and *dominantur eorum, id est* are otiose, or that about two lines after *dominantur* have been omitted. The words *id est*, however, though difficult in one way, are a help in another. Most probably Ockham began his quotation at (*a*) with *Scitis quia* and proceeded to

explain *dominantur* with *id est* which led him straight to *non contenti* as the explanation. Another difficulty arises in the MS., for it reads *non sic* after *spiritualia autem*, and at the same time the italicized words *non in voluntate* and *non in necessitate*, at (*c*) and (*d*) above, are left out. Here too, except for the words *non sic* (which as the dots below them suggest are erroneous) the reading of the MS. is quite likely to be what Ockham wrote, for it is hard to imagine that both phrases (*c*) and (*d*) would disappear. Even if the word *necessitate* had fallen out, it would have left *spiritualia autem in voluntate non sic sic et*, which would still be a long way from *spiritualia autem non sic in voluntate sic*, &c. If an explanation for the presence of *non sic* be required, it can perhaps be found in the psychological influence of *autem*, for higher up we have *vos autem*: and no doubt the perpetually recurring phrase *vos autem non sic*, together with the plethora of *non*'s and *sic*'s, weighed too heavily with the weary copyist.

Page 20 : 13. '*his omnibus*': not the chapter heading, but the opening words of the paragraph appended to Causa viii, qu. i, cap. vii, which begins, 'Apostolica auctoritate prohibemus,' &c. The phrase *sacris canonibus* is in the middle of a sentence, and the passage quoted is the last third of Gratian's own paragraph. Before *his* here (as also before *leges* at 24 : 26 and after *et* at 30 : 23) stands a sign resembling a double long *s* joined. In the three cases it introduces the actual words of Gratian, the quotation beginning with the chapter heading. It may therefore be given its usual meaning, *subscriptum*.

21. *sicut patet*. The four citations included in Causa viii, qu. i, add but little to the idea in *sibi divitias congregare* above. The first, 'olim' (cap. viii), is from Augustine, under the title 'Qui sibi et ecclesiae prodest utroque pede calciatus intelligitur'. Next in order is 'in scripturis' (cap. ix) from Gregory under the heading 'Locus regiminis sicut desiderantibus est negandus, ita fugientibus est offerendus'. The third (cap. xiii) from the *Apocrypha Clementis*, is entitled 'Qui omnibus praeest singulos relevare contendat'. The fourth 'in ecclesia' as it stands might be either Causa i, qu. i, cap. lxviii or cap. cxxx of Dist. iv in the Pars Tertia, but as neither have any connexion with the question in discussion, it is more likely that 'Sunt *quidam* in ecclesia' (cap. xix) was the intended chapter heading, for Gratian has appended to it the remark, 'Non ergo qui praeficiuntur semper ceteris meliores intelliguntur'. The glosses on these chs. add nothing of importance.

Page 21 : 11. *Ubi non*: from Proverbs xi. 14. The *versio antiqua* in Sabatier runs: 'Quibus non est gubernator cadent quasi folia' (*πίπτουσιν ὥσπερ φύλλα*, Septuagint, which appears to have read עלה for עם, i. e. a possible confusion of ע with מ in the old character). Ver. 18 of ch. xxix is similar only in the English. The idea of unity is developed further at 25 : 24.

15. *quaeret*: future here, but present tense at 23 : 1.

26. *supra allegatas*: in §§ 2, 3, and 4 on p. 9.

Page 22 : 5. '*sicut enim*': from the same *Clementis epistula* as was quoted at 7 : 6, and numbered cap. xxx in Gratian. The only variations worth mentioning are the unnecessary appearance of *temporales* next to *tollitutid nec*, when *saeculares* the original word follows on; and *dent* for *dederint*.

12. *idem apostolus*. The quotation *Haec vero opera* to *datur* forms the end of cap. xxix already cited at 7 : 6, and the variant readings are unimportant. No doubt the phrase *ut in capitulo praecedenti* refers to the passage at 7 : 6. However, *idem apostolus* is quite likely to raise a difficulty, because *idem* must refer to the Apostle Peter a few lines above, who is represented as actually addressing Clement in a letter given as cap. xxx in this part of the Decretum. But it will be seen from the note on 7 : 6 that Peter was regarded as the real author of both chapters.

16. *salus omnibus datur*: because Clement was going to be the successor of St. Peter.

31. *libertas . . . libris*: see note on 8 : 7.

Page 23 : 1. *sunt*: indicative, although in an indirect question.

4 *sanctiones canonicae*. Probably the Gospels and Epistles are meant. Marsilius (*Def. Min.* 8 : 25 to 35) refers to baptism, mass, ordination, and confession as the four chief duties of a priest, together with preaching (*Def. Min.* 45 : 15 and 49 : 20). Upon the last point Marsilius is insistent: heretics were not to be prevented from hearing the truth, for Peter preached to rebels outside the prison (Acts 5, vv. 18 to end): it was in his opinion mortal sin in a priest to deny mass or preaching to any who wished to hear or receive.

16. *parificari* = *parem esse*, but *parificare* = *parem facere* (Du Cange). That Ockham regards *utilitas* as the same as *necessitas* in certain cases appeared previously at 11 : 3 in the phrase 'utilitatis quae necessitati valeat comparari'.

18. *deficerent*: see note on 7 : 21.

24. *legem evangelicam legem*: see note on 45 : 25.

Page 24 : 9. *quodcumque ligaveris*: discussed at 10 : 19.

10. *exceptionibus*: for this see list of quotations in the note on 10 : 24.

*canones . . . in omnibus obediendum*. There are several passages in Canon Law to this effect, possibly the clearest being Dist. xciii, cap. i (pars i), 'Obedientiam', where Gratian says, 'Obedientiam autem inferiores ex ordine superioribus debent. Summo enim pontifici ea debetur ab omnibus obedientia, ut nulli liceat ei communicare, cui pro actibus suis ipse inimicus extiterit, nec in ecclesia esse poterit, qui eius cathedram deserit.' See also Dist. xix. caps. ii and iv, and note on 'nemini' at 30 : 22.

15. *privare*: see second half of note on 8 : 13.

25. *subscripto* '*leges instituuntur*'. For *subscripto* see note on 20 : 13. Gratian himself says, 'Leges instituuntur, cum promulgantur, firmantur cum moribus utentium approbantur. Sicut enim moribus utentium in contrarium nonnullae leges hodie abrogatae sunt, ita moribus utentium ipsae leges confirmantur.' See Augustine, *De Vera Religione*, cap. xxxi (Migne, vol. xxxiv, p. 148). On *moribus utentium* the gloss begins, 'cum ergo papa vult condere canones, episcopi possunt contradicere, et dicere "canon iste non convenit consuetudini regionis nostrae"', and asks who will gain the day, the pope or the bishops. (Thus, 'Orbis maior est urbe', xciii, dist. 'legimus', 'Sententia papae praevalet', xxxv, qu. ix, 'veniam,' ix, qu. iii, 'nemo', and, if he do not speak against the faith, xxv, qu. 'sunt quaedam'.) The gloss further explains *abrogare* = *in totum tollere legem* and *derogare* = *pro parte detrahere legi*. That Ockham was thinking here of this gloss is clear from what follows: 'Sed qualiter potest populus abrogare canonem, cum non possit condere—maxime ex eo quod tota potestas translata est in principem: § de constit. prin. l. i. Sed dic quod non potest abrogare nisi per expressum consensum papae : ut extra de praeb. "cum iamdudum" : licet quidam dixerint quod sufficeret sola scientia papae. 10. Sed credo quod consuetudo rationabilis et praescripta tollit leges : ut extra de consuet. c. ult. etiam sine scientia principis. Difficile enim esset eum omnes consuetudines quae servantur scire. B.'

27. *constitutiones apostolicae* : from Greg. lib. i, tit. ii, cap. xiii : 'Quoniam constitutio apostolicae sedis omnes astringit.' Though Ockham uses the plural it is likely enough a quotation from memory : see also cap. i of the same, where the heading says, 'Iuris canonici statuta omnes ligant'.

Page 25 : 3. *mulctas scilicet superabundantes.* This makes good sense for the peculiar MS. reading $m^{tas} \cdot s \cdot \overline{srhndates}$, the aspirate being the chief obstacle to a clear settlement. For another instance of the phrase see *Oct. Qu.* iii, cap. ix, *superabundantes possessiones* ; also Wyclif, who, in his *Supplementum Trialogi* (Lechler, p. 411), discusses *habundantia temporalium.*

18. *copia non possit.* The MS. gives simply *copia possit*, but *non* is required by the sense. See 27 : 21 where the phrase *talem copiam haberi non potest* is found in precisely similar surroundings.

19. *interpretatio benignior . . . amplectenda.* Two sources for this phrase might be suggested, if, as it seems, it is a commonplace : (1) Codex Iustin. lib. iii, tit. xxviii, cap. iii, where the gloss at the end says, 'Interpretandum enim est in benigniorem partem, ut testamentum valeat' : and (2) de regulis iuris xlix in the Sext. Decr. lib. v, tit. xii, 'In poenis benignior est interpretatio facienda.' Marsilius uses the same kind of phrase in his *Def. Min.* 24 : 26. For a discussion on this idea see Aquinas *S. Theol.* ii, ii, qu. lx, art. iv.

24. *uni capiti.* Analogies from anatomy are quite common in

medieval political thought. A passage in Petrarch (epist. 8 in Goldast ii) gives a close parallel. 'Orbis universus . . . uno temporali capite debet esse contentus. Monstruosum est enim omne animal biceps. . . . Quod si capita plura sint, unum tamen, quod cuncta compescat, atque omnibus praesit, esse debere non ambiguitur, ut totius corporis pax inconcussa permaneat.' See also the reference to *monstruosum caput*. Dial. iii. tr. i, lib. ii, cap. i.

Page 26 : 7. *per appellationem*. The word *per* is clearly required here as at 18 : 12. It is suggested in a marginal note in the MS.

9. *conquestus* : being the eighth chapter of Causa ix, qu. iii, concerning the complaint of Sigibodus archbishop of Narbonensis against Rudolphus archbishop of Bituricum. Pope Nicholaus sums up the case with the words : 'Primates enim vel patriarchas nihil privilegii habere prae ceteris episcopis, nisi quantum sacri canones concedunt et prisca consuetudo illis antiquitus contulit, diffinimus.' Also quoted at 28 : 25. The introductory note in the Decretum runs, 'In suffraganei parochia nihil absque eius consilio metropolitanus agat.'

12. *licet non omnes*. The *non* has been added above the line in the text with a caret.

18. *sic*. This is a difficult paragraph. Possibly *sicut* or a change in punctuation would improve matters.

20. *etiam casualiter*. Between these two words the MS. reads *causaliter*, with dots below. There can be no reason for retaining it.

24. '*ubinam*' . . . '*fidem*.' The second of these two quotations is the statement of the Emperor Martianus at the council of Chalcedon : 'Nos ad fidem confirmandam, non ad potentiam ostendendam exemplo religiosissimi principis Constantini sinodo interesse volumus.' The first is the letter beginning 'Proposueramus' of Pope Nicolaus to the Emperor Michael, in which he calls in question the attendance of emperors at synods, except when they deal with faith, 'quae omnium communis est, quae non solum ad clericos, verum etiam ad laicos et ad omnes omnino pertinet Christianos.'

On this head Ockham has similar remarks in cap. viii of his *Compendium Errorum*. 'Quarta obiectio cavillosa est : Ad Fratres Minores non pertinet de causa fidei se intromittere, sed solummodo ad praelatos, cuiusmodi sunt Cardinales Archiepiscopi et Episcopi. Sed ista cavillatio faciliter expugnatur. Quia quaestio fidei ad omnes pertinet Christianos et non solum ad praelatos : imo etiam ad laicos. Vnde etiam in decretis *dist.* 96 c. *ubinam* . . . *pertinet Christianos*. Igitur ad Minores pertinet de causa fidei se intromittere, cum sint de numero Christianorum reputandi.' Later on, in the concluding paragraph of the *Compendium Errorum* Ockham is even more explicit in his demand for that freedom in religious opinion which he claims at 4 : 1 and 30 : 31. He quotes

the pope as saying, 'Districtius inhibemus, ne postquam super negotio fidei quaestio seu dubitatio aliqua, super qua sunt opiniones adversae seu diversae, deducta fuerit ad Apostolicae Sedis examen, quisquam ex tunc alterutram partem declinare eligere vel approbare praesumat, sed super ea Sedis eiusdem iudicium seu declaratio expectetur'. In reply to this Ockham continues: 'Ergo secundum mandatum . . . non . . . debet aliquis Frater Minor, nec per consequens Christianus quicumque quamcumque partem determinare, eligere vel approbare. Quod est erroneum, iniquum et blasphemum. Nam ex eo sequitur, igitur si talis quaestio: fuit Deus ab aeterno vel non? vel, est Christiana fides vera vel non? et sic de aliis quibuscumque quaestionibus moveatur coram summo pontifice, cum possunt de huiusmodi quaestione esse inter catholicos et haereticos opiniones diversae et adversae: talis quaestionis nullus Frater Minor (et eadem ratione nullus Christianus) debet veritatem confiteri, donec summus pontifex suam declaraverit voluntatem. Quod non est aliud quam fidem nostram totaliter in arbitrio hominis constituere, et quid credere debeamus ab eo expectare.'

**Page 27**: 2. '*duo.*' This is the third citation by Ockham from Distinction xcvi (interesting among other things for its inclusion of the forged decretals of Constantine). Pope Gelasius writes to the Emperor Anastasius: 'Duo sunt quippe, imperator Auguste, quibus principaliter hic mundus regitur: auctoritas sacra pontificum et regalis potestas. In quibus tanto gravius est pondus sacerdotum, quanto etiam pro ipsis regibus hominum in divino sunt reddituri examine rationem.' He then goes on to say that Ambrose, even though he was not pope, excommunicated the Emperor Theodosius for a fault, which was considered insufficient by the other priests. After this Ambrose himself is cited as saying: 'Sublimitas episcopalis nullis poterit comparationibus adaequari.'

6. *auctoritate beati Augustini*: from Tractatus vi, cap. i of his commentary *In Ioannis Evangelium* (Migne, vol. xxxv, p. 1436) where the passage runs: 'Ecce sunt villae: quo iure defendis villas? divino an humano? Respondeant: Divinum ius in Scripturis habemus, humanum ius in legibus regum. Vnde quisque possidet quod possidet? nonne iure humano? Nam iure Divino, *Domini est terra et plenitudo eius* (Ps. xxiii. 1) . . . Iure tamen humano dicit, *Haec villa mea est* . . . Iure ergo humano, iure imperatorum.' It is surprising that Ockham did not make something more of these last words. The writing of the MS. is very misleading. First of all, in the sign for *viii* the *v* is written like two small circles touching each other, so that the sign taken as a whole has no meaning. Secondly, the word *colligitur* is underlined as well as *quo*, so that the chapter heading appears to be 'Quo colligitur': but the blame for this must lie with Ockham, for his awkwardness of style. He devotes the whole of cap. xci of his *Opus Non. Di.* to a discussion on this passage. See also 43: 10.

22. *ignorantia*. So also Aquinas remarks (though I have lost the reference), 'prudentes omnes namque fallit plerumque ignorantia facti.' The purpose of this tract was to enlighten the pope (see also 45 : 10) and the faithful (45 : 8)—a task for which Ockham expects gratitude (29 : 25).

28. *Sententia pastoris*, continues, 'sive iusta sive iniusta fuerit, timenda est.' This comes originally from Gregory's *homilia xxvi in Evangelia* (Migne, vol. lxxvi, p. 1201), where we read: 'Sed utrum iuste an iniuste obliget pastor, pastoris tamen scientia gregi timenda est?'

Page 28 : 6. *contra leges*: from the first chapter of Greg. lib. ii, tit. xxvii which says: 'Sententia contra leges canonesve prolata, licet non sit appellatione suspensa, non potest tamen subsistere ipso iure.' The heading gives *leges vel canones*.

15. *de sententia excommunicationis*. This passage from Greg. lib. v, tit. xxxix, cap. xl, is quoted twice. The main points are contained in the sentence, (*a*) 'Nos igitur credimus distinguendum, utrum quis proponat se post appellationem legitimam interpositam excommunicatione fuisse notatum, (*b*) vel in forma excommunicationis intolerabilem errorem fuisse patenter expressum.' The words *quando . . . errorem* of the previous line, though debated and explained in the gloss on this chapter 'per tuas', are really a citation of the gloss on 'dilectus': see note on 28 : 31. On the other hand the phrase *quando . . . interdictam* at 29 : 2 does come from the gloss on 'per tuas'. This gloss has *legitimam* instead of *legitime interdictam*.

18. '*cum ad quorumdam*.' Thus begins cap. vii of Greg. lib. v, tit. xxxi, but the introductory note written above, being in general terms, is clearer: 'Excommunicatio, lata contra subditum, quia non paret contra privilegium sibi a superiori concessum, non tenet.'

25. '*conquestus*': quoted also at 26 : 9. The metropolitan was not to interfere in the affairs of his suffragan or hear cases properly belonging to him, 'nisi forte pro causis quae apud se (sc. Rudolfus) terminari non possunt.' The language of Ockham explains this.

31. '*dilectus*' *in glossa*. Two points of interest are contained in gloss *c* on *revelare* in Greg. lib. v, tit. xxxi, cap. xiii—(1) 'Sed numquid ille sacerdos fuit suspensus: quia non faciebat alterum quod praecipiebatur? Videtur quod sic . . . sed non videtur duplici de causa: quia ipse non sciebat furtum illud ut homo . . . sed ut deus . . . et in hoc maior erat ipsis rectoribus:' and (2) 'item quia ista sententia continebat intolerabilem errorem: unde non tenuit, id est, de sent. excom. "per tuas".' This last occurs at 28 : 15 and 29 : 3.

32. *delegati* '*sane*'. The interesting remark in the gloss marked *e* on *vices nostras* in this passage, Greg. lib. i, tit. xxix, cap. xi, 'sane quia nos' is: 'Nota quod delegatus vices gerit delegantis': and

above 'Item maior est illis quorum causam suscipit terminandam.' This helps to explain the two or three lines above.

**Page 29 : 3.** *excommunicationis* '*per tuas*': see note on the same at 28 : 15.

13. *nota tyrannidis.* This sentence beginning with *quod ut* and ending with *est utrisque* is awkwardly constructed. The words *non intentione* to *notitiam deducendi* merely explain *disputare* in the line above: and it will help to clear away part of the difficulty, if we place them in a parenthesis. The main verb will be *persequitur.* The words *cum tamen* cannot be taken as a causal or temporal conjunction, but concessively, with the meaning 'although'. The general outline will thus be: 'Quod ut liberius faciat—eos qui —non metuunt disputare, [papa] ita persequitur, ut—nullus doctor —proponere—audeat quoquo modo, cum tamen disputare—debeat esse gratum, eo quod scire—necessarium est.' This still leaves us with a difficulty in the first line, for between *timore* and *nota* a second hand has introduced *non absque* with a caret. We therefore have *absque omni timore non absque nota tyrannidis*, without any indication as to how these words are to be taken. The break, though an awkward one, is best placed after *timore.* Ockham is fond of writing a verb after an adverb and leaving a second adverb or adverbial phrase to follow after *et*, and here *liberius* and *absque omni timore* have much in common. If we take *nota* as a noun meaning 'stigma' as John XXII himself used it in his Bull 'Ad Conditorem', cited at 46 : 26 ('quae omnia in notam et iniuriam sanctae Romanae ecclesiae non est dubium redundare'), the words *non absque nota tyrannidis* will go adverbially with *persequitur.*

15. *in universalibus.* The problem of the universals formed an important side-line in medieval philosophy: and as his attempt at a solution gave Ockham his title 'the second founder of Nominalism', it may not be out of place to sketch the argument.

Likenesses between things are obviously real (whiteness, hardness, &c.), and by attention to these likenesses we can classify particular objects. By widening our classification we come to deal with general likenesses or universals, of which each object of experience may be regarded as a complex.

It was generally stated that these universals existed *ante rem*, *in re*, or *post rem*, but it was the tendency of philosophers to shift them from the first to the second and from the second to the third position. Thus after the time of Abelard the view was abandoned that the universals existed *ante rem* (i. e. in the mind of God, like the Platonic *idea*).

The problem, having adopted its classical form by the time of Aquinas (crystallizing around the second standpoint *in re*), the difficulty was to explain the particular: for if each particular is a mere embodiment of universals, how comes it that Plato differs from Socrates? Aquinas answers the question by postulating

a *principium individuationis*, which gives each particular its existence as such. Thus Plato and Socrates had something *in* them which was not affected by any relation to anything else. Aquinas, therefore, is called a Realist by reason of his insistence on the objective reality of universals.

Ockham attacks this doctrine of the *principium individuationis* on the ground that if Plato and Socrates are each merely a collection of identical likenesses plus a unique differentiating quality, the latter, being present in all men to make them differ from one another, becomes a universal and leaves us with no particular. Again, real existence can be granted only to substances (i. e. things which cannot be reduced to anything else and are not dependent on anything else). Hence it follows that universals, if they have real existence, must be substances: an impossible position, for (1) no individual can come into existence, and (2) no individual can go out of existence; for what comes in was already there, and what goes out must take all else with it (*Log.* i, cap. xv).

The problem, therefore, must be attacked by starting with the particular: 'Non est quaerenda aliqua causa individuationis . . . sed magis esset quaerenda causa quomodo possibile est aliquid commune et universale.' Ockham does this by showing that all things outside the mind are singular, that all particulars with identity of likeness (members of the higher classifications such as *genus* and *species*) differ only numerically, and that the universal is an *intentio mentis* (i. e. 'that to which the mind points') or (as another William has said), 'a dagger of the mind' whose objective reality is 'a false creation proceeding from the heat-oppressed brain'. Thus he sweeps away both *ante rem* and *in re* as positions for the universal: and in this he was anticipated by Durandus and Petrus Aureolus.

The difficulty of Aquinas is now reversed, for we now have nothing to go upon except the individual mind and objectively real particulars. The gulf may possibly be bridged by the reflexion that whereas universals cannot exist without the mind, likenesses may. Thus if we say, 'Socrates is white and Plato is white', the likenesses exist in any case *in re*, and give rise in our minds to a conception of absolute and arbitrary 'whiteness', i. e. a universal. Thus while every thing outside the mind is singular, we are not precluded from treating the universal as a reality, for it is real to us, though not objectively so. If men understand one another when they speak of abstract 'whiteness', it is probably due to the fact that they are dealing with particulars which differ only numerically, and that as numerical difference is not in the nature of the problem (the idea 'humanity' is unaffected by the number of men composing it) they draw their concept or universal from identically the same material.

Lastly, it will be seen that Ockham has in mind two kinds of

universal: (1) the likeness between two or more objects, which can be called a 'predicate': and (2) the sign (*vox* or *nomen*) voluntarily employed for indicating several things at once, as in a classification (*Log.* i, cap. xiv). This latter has given Ockham his title 'Nominalist' though it seems generally agreed that the term is misapplied and that 'Conceptualist' is more appropriate.

Several odd points remain to be noticed. By a curious fate Ockham is in many quarters known solely for his 'razor', which Mr. W. M. Thorburn ably proves (*Mind*, no. 107, July 1918) to be an invention of a later age, occurring first in the works of Condillac less than two centuries ago, and introduced into England by Sir William Hamilton in 1852. But Ockham's meaning is clear enough, that if there is no 'humanity' existing apart from the individuals which collectively form it, it is gratuitous to postulate its objective existence (*Log.* i, cap. lxvi): 'frustra fit per plura quod potest fieri per pauciora (*Sent.* ii, Dist. 15, O). These words as Mr. Thorburn points out, are actually quoted by Sir Isaac Newton in his third edition of his *Principia Mathematica* of 1726 (De Mundi Systemate, lib. iii, p. 387). This is Regula i, and continues, 'Natura enim simplex est et rerum causis superfluis non luxuriat': but the garbled version in the form 'entia non sunt multiplicanda praeter necessitatem' was invented by John Ponce of Cork in 1639 and took its present shape for the first time in the *Logica Vetus et Nova* of John Clauberg of Groningen in 1654. Even in his philosophy there is much that is untrue in the name, weapon, and formula bestowed upon Ockham by posterity.

The philosophy of Ockham began to make great advances at Paris after his death and was dominant there for at least half a century. A strange point arises in a passage in Raynaldus, *Cont. ad Baron.* vol. v, p. 250, where John XXII has been speaking of the way in which Michael of Cesena had turned himself into a heresiarch: 'Adiunxit se socium illius perfidiae Guillelmus Ochamus Anglus, qui secta nominalium inter philosophos condita, plurimum in scholis pulverem excitavit,' &c., dated December 1323 and ordering his arrest. The brief thus quoted is described as a communication addressed to the bishops of Ferrara and Bonnonia: see also Wadding, *Ann. Min.* vol. iii, p. 299 for the same. If this statement is genuine, we have here not only the first reference to Ockham as a Nominalist, but also the first papal acknowledgement of his existence. Further, it would suggest that there were matters other than evangelical poverty to discuss with him.

The present tract opens with the question as to why Ockham should not be included *inter philosophos lucis* (1 : 20); and on this head the idea suggested in the *Dialogus* i, lib. ii, cap. xxii, is worth remembering: 'Assertiones praecipue physicae, quae ad theologiam non pertinent, non sunt ab aliquo solemniter condemnandae seu interdicendae quia in talibus quilibet debet esse liber, ut libere

dicat, quod sibi placet.' But Ockham belonged to the wrong school of thought: John XXII had canonized Aquinas in 1323. Moreover, as this present passage suggests, the doctrine of the universals combined with the tradition of scientific experimentalism derived from Roger Bacon led Ockham into paths also of theological heresy, as M. Étienne Gilson demonstrates in his *La Philosophie au Moyen Âge*, vol. ii. I am much indebted also to Mr. Delisle Burns for sending me his tract on the philosophy of Ockham, of which I have made full use, as also to Dr. Philip Wicksteed for so kindly discussing the problem with me, and to Dr. C. R. S. Harris of All Souls for much useful material. Difficulty in obtaining these points is the measure of my excuse for including them here: for Ockham was a critical rather than a constructive writer, and his remarks on this subject are necessarily scattered. Moreover, some of his philosophical works remain unpublished, the editions are rare and difficult of access, and so unattractive as to be actively discouraging. Aquinas and Scotus have been more fortunate.

**25.** *gratum*: a strange opinion, in view of his repeated excommunication. But Ockham held it quite seriously, for he ends his great *Opus Nonaginta Dierum* with the words: 'Sane pro hoc opere ambae partes grates mihi referre deberent. Nam impugnantium rationes scripturae mandavi, et quantum in me est, omnibus publicavi.' He also mentions papal ingratitude at 45 : 30.

**26.** *necessarium*. The alteration of the MS. reading *necessaria* to a neuter singular is required.

**Page 30 : 2.** *subditi*. Friedberg reads *subiecti*.

**4.** *terminos antiquos*: a quotation from Proverbs xxii. 28: 'Ne transgrediaris terminos antiquos, quos posuerunt patres tui.'

**8.** *quod sicut apparet . . . 'honoratus'*. That this quotation comes from these four chapters, and that the four chapters themselves are now correctly cited, can be gathered from their references to one another. Taken together the chapter headings form a parenthesis and are best placed between brackets. The first is given in the MS. as ii. q. i 'Christianus' and the last as Dist. lxxxiii 'honoratus'. Clearly xi . . . 'Christianis' and lxxiiii (normal for lxxiv) were intended. At the end of 'Christianis' we read 'quia qui iudicium refugit apparet eum de iustitia diffisum', while its gloss mentions 'honoratus' and 'decrevimus'. In 'honoratus' it says, 'Sed sui suorumque actuum conscius, personam suam ad iudicium postposuit destinare:' and its gloss mentions 'decrevimus' and 'Christianis'. The chapter 'decrevimus' remarks: 'Nam manifestum est, confiteri eum de crimine qui indulto et totiens delegato iudicio purgandi se occasione non utitur:' but its gloss mentions nothing of importance. The gloss on 'nullus', after saying, 'qui enim iudicium refugit, apparet eum de iustitia diffisum', is alone in quoting all the three other chapters.

20. *audeant*: subjunctive necessary after *ne*.

22. '*nemini*'. It is worth while giving Causa xvii, qu. iv, cap. xxx in full, for it explains itself. 'Nemini est de sedis apostolicae iudicio iudicare aut illius sententiam retractare permissum, videlicet propter Romanae Ecclesiae primatum, Christi munere in beato Petro apostolo divinitus collocatum.'

23. *committunt*. Taken by themselves the two signs after *et* give no clear indication of their connexion or origin. The first, however, as can be seen from the note on 20 : 13, may be given the meaning *subscriptum*. The second word *committitur*, as it stands in the MS., nowhere forms a chapter heading in canon law. But if we look at the chapter previous to 'nemini' of the line above, i. e. to Causa xvii, qu. iv, cap. xxix, we shall find not only all the ideas of the three adjacent chapters 'nemini', 'disputare', and 'nemo' but also an actual reference to the words of 'disputare': and as the word *committunt* begins one of the paragraphs appended by Gratian to cap. xxix 'Si quis suadente', the difficulty is removed. No doubt the copyist was misled by the similar ending of *asseritur*.

29. '*disputare*' . . . '*nemo*'. At first sight the MS. is far from promising: 'disputare de potestate imperatoris c de crimine sacrilegii le disputare nec de fide catholica c de summa t$^{i}$ et si ca le nemo sed disputare.' The parallel, however, is complete, and the difficulties disappear when it is noticed that for some reason or other the stops, which mark abbreviated words, are absent. Thus *le* = *legitur*, and the words that follow, i. e. *disputare* and *nemo*, are chapter headings in the Codex: *si* is really *fi* and *ca* stands for *catholica*, *t$^{i}$* (i. e. *tri*) apparently for *trinitate*, giving (1) *de crimine sacrilegii* and (2) *de summa trinitate et de fide catholica* as the two titles. These are the only two quotations from the civil law acknowledged in detail.

(1) *legitur* '*disputare*': from Codex, lib. ix, tit. xxix, cap. ii, 'Disputare de principali iudicio non oportet: sacrilegii enim instar est dubitare, an is dignus sit, quem elegerit imperator.' See Gratian, Dist. xcvi, cap. ii 'nos ad fidem'. The older editions spell 'disputare', but Krüger gives 'disputari'.

(2) *legitur* '*nemo*': from Codex, lib. i, tit. i, cap. iv, 'Nemo clericus vel militans vel alterius cuiuslibet conditionis de fide christiana publice turbis coadunatis et audientibus tractare conetur in posterum, ex hoc tumultus et perfidiae occasionem requirens.' For the idea behind both quotations see second part of note on 26 : 24.

Page 31 : 12. '*estote*'. Bede is quoted in Greg. lib. v, tit. xli, reg. ii as saying: 'Quod enim scriptum est, *ex fructibus eorum cognoscetis eos*, de manifestis dictum est, quae non possunt bono animo fieri, ut stuprum, blasphemiae, furta, ebrietas et similia, de quibus nobis permittitur iudicare.' In the MS. the *te* of *estote* has been added very faintly by a later hand, and there is a note in the margin, in which the quotation is correctly given as *estote*.

19. *avaritia*: a vice for which Petrarch castigates the popes of his day: Fam. Epist. lib. vi, i (*Infelicem invidiam*), where he says: 'Credite mihi, Pontifices, aurum potuit Christus habere, sed noluit: dives esse potuit, dum inter homines agebat, paupertatem maluit.' The wealth of John XXII was notorious. Villani (lib. xi, cap. 20) estimates his wealth in cash at eighteen and in silver and jewels at seven million florins, an unheard of figure which he has to explain: 'Sicchè in tutto fu il tesoro di valuta di piu venticinque milioni di fiorini d' oro, che ogni milione e mille migliaia di fiorini d' oro la valuta.' One of the chief sources of this revenue was the sums paid by clerics on promotion, not as previously in the form of a bribe to the bishop or archbishop whose place they were hoping to occupy, but directly in the form of first-fruits to John XXII, who thus was liberal with preferments all round and in abolishing simony made a fortune.

22. *teste Gregorio*. This passage belongs to Sancti Gregori Magni, *Moralium*, lib. xviii, cap. iv in caput xxvii beati Iob (Migne, vol. lxxvi, p. 41) on verse 5: 'Sunt namque nonnulli qui dum male facta hominum laudibus efferunt, augent quae increpare debuerunt . . . Sed sanctus vir sicut mala de bonis non aestimat ita iudicare bona de malis recusat, dicens, *Absit a me ut iustos vos iudicem*: *donec deficiam*, *non recedam ab innocentia mea*.' The whole quotation from *Sunt nonnulli* to *innocentia mea* may be found in Dist. xlvi, cap. ii. It may be noticed that on this occasion the copyist has written the Arabic numeral *46*: also *et legitur*.

26. *ex suis fructibus*: doubtless from Matthew vii. 20: 'Igitur ex fructibus eorum cognoscetis eos.' Verse 16 reads *a fructibus*.

**Page 32**: 1. *illud Isaiae 5*. The Vulgate reads, 'malum bonum et bonum malum.' For *Isaiae* the MS. gives *y*, long *s* together with the sign for *er*, followed by *.u.ue*. The first *u* no doubt refers to chapter *5*.

3. *beatum Hieronymum* . . . '*si quis*'. Three quotations are to be considered here. The first is a reference to Proverbs xvii. 15: 'Qui iustificat impium, et qui condemnat iustum, abominabilis est uterque apud Deum.' The second includes the whole passage, which comes from Causa xi, qu. iii, cap. lvii: the agreement of the MS., except for the second appearance of *uterque*, is complete. The original passage from the *Commentariorum in Epistolam ad Philemonem*, liber unus, of Jerome, on v. 4 (Migne, vol. xxvi, p. 610) differs from the Gratian only in its opening words, '*Qui dicit*, inquit, *iustum*'.

30. *cum non* . . . *parem*: a quotation from Greg. lib. i, tit. vi, cap. xx. See note on 36: 27 where it makes a second appearance.

**Page 33**: 2. '*si quis*' *libro vi*. For an explanation of this form see note on 7: 25. This is regula xlvi from tit. xii of the Sext. Decr., lib. v. The chapter heading 'si quis', often written 'is, qui', continues, 'in ius succedit alterius, eo iure, quo ille, uti debebit'.

13. '*sicut ecclesia*', continues, 'proprias res amittere non debet, ita eam rapacitatis ardore alienas invadere non oportet': and forms cap. xlix. The paragraph as a whole suggests the scandals relating to the confiscation of all property owned by the Knights Templar. The principle of 'no taxation without consent' had been well fought out in England during the second half of the thirteenth century.

20. *muniatur*. The subjunctive of *muniatur* is required to balance *habeat* above. The sentence is particularly awkward, owing to the conglomeration of *quia cum sicut* ('because, since, as'). It would seem that *quia* leads straight on to *concluditur*, with *cum* introducing *habeat* and *muniatur* as two subordinate verbs.

21. '*per venerabilem*.' In this canon Innocent III explains to William of Mons Pessulanus his reason for refusing to legitimize his sons, though he had granted the request of Philip, king of France for the legitimization of his son and daughter. Two phrases suffice to support the argument of Ockham. 'Insuper, cum rex ipse in spiritualibus nobis subiaceat, tu nobis et in spiritualibus et in temporalibus es subiectus': and again: 'insuper, cum rex ipse superiorem in temporalibus minime recognoscat, sine iuris alterius laesione in se iurisdictioni nostrae subicere potuit et subiecit.'

25. *sui*. The simple pronoun, if correct, is harsh here, as at 24 : 3.

Page 34 : 8. *falcem suam*. This commonplace is attributed by Krammer in his edition of the *Determinatio Compendiosa* (Mon. Germ. Hist. 1909) to Deut. xxiii. 25, which runs, 'si intraveris in segetem amici tui, franges spicas, et manu conteres: falce autem non metes'.

13. *rationabilis et praescripta*. The meaning and explanation of these words occur later in the chapter following, particularly in the gloss in the note on 37 : 21, *glossa extra de consuetudine*.

14. *de multis*. In the MS. the line ends with *quod de* and a small space, while the next line begins with *multis*. The space contains another *multis* written above the line, but only one is required.

23. *esset*: to judge from the other clauses almost certainly an error for *est*.

Page 35 : 2. *approbatio electi*. This was one of the standing grievances against John XXII, who gave all his support to Frederick of Austria against Lewis of Bavaria, and who on the election of the latter declared the empire vacant. In his *Oct. Qu.* iv, cap. ix Ockham remarks, 'Rex Romanorum seu Imperator fidelis non debet esse deterioris conditionis quam fuerat rex Romanorum seu Imperator infidelis, cui succedit. Sed imperatores infideles, statim facta electione, habebant plenam administrationem; ergo et imperatores fideles statim habebunt plenam administrationem.' Again in

*Dialog.* iii, tr. ii, lib. ii, cap. xxix the 'magister' says 'Rursus, quod Rex Romanorum eo quod est electus, administrare debeat, antequam electio praesentetur Papae, probatur', and refers to Dist. xxiii '⟨in⟩nomine'; so that 'electus in Regem Romanorum non indiget confirmari a papa.'

17. *iure gentium.* The difference between the *ius civile* and the *ius gentium* is roughly the difference between the particular and the general; for, as the Institutes i, ii, i say, 'omnes populi, qui legibus et moribus reguntur, partim suo proprio, partim communi omnium hominum iure utuntur', and it is to this latter that we owe the introduction of almost all contracts, such as buying, selling, partnership and so on. The original *ius civile* of the city of Rome was the *ius Quiritum*, mentioned at 37 : 10.

23. *de consuetudine* : see note on 37 : 21.

Page 36 : 3. *quae 6 annis.* As the sign between these two words is identical with the *6* in *46* at 31 : 23, there can be little doubt that *6* was intended to be read here. This is a strange statement, because the two years that elapsed between the death of Clement V and the election of John XXII was considered phenomenal. If a vacancy, occurring many years or even several centuries previous, had been meant, Ockham would most probably have mentioned the occasion, so that we may reasonably look for the explanation nearer his own day. The followers of Lewis of Bavaria deposed John XXII as a heretic early in the spring of 1328 : his death in 1334 gives us the required period.

14. *illo* : the same trick of style as in Marsilius (*Def. Min.* 43 : 39), 'ille vel illi, cui vel quibus.'

17. *glossa . . . capitulo 'frustra'.* The passage is to be found in gloss *r* on 'consuetudinem' in Dist. viii, cap. vii, where the question is asked, 'Ex his omnibus cap. videtur quod semper ius praeiudicet consuetudini. Videamus ergo quando consuetudo praeiudicet iuri.' It will be seen that the part marked as a quotation comes from the following passages : (1) 'Scias ergo quod ad hoc quod consuetudo praeiudicet iuri, requiritur quod sit praescripta :' and (2) 'Item quod possit dici antiqua et approbata.' Between these two there is a comment on Greg. lib. v, tit. xl, cap. xxv 'abbate' : 'Item quod obtinuerit in contradictorio iudicio populi.' It is this last part to which the chapter heading 'frustra' at 37 : 23 refers. See also notes on 37 : 18 and 21.

20. *huiusmodi.* The MS. sign for this word *hi*$^{9}$ is unusual. At 6 : 5, 37 : 12 and 37 : 29 we read *huiusmodi* for *hi*$^{\overline{9}}$. It is quite probable that the superscript line has been omitted by the copyist. For two obvious cases of *huius* we have *h*$^{9}$ at 7 : 9 and 40 : 1, whereas for *his* we generally have *hiis* written in full, as at 3 : 30 and 12 : 13.

23. *praedictam* : followed in the MS. by a case of dittography.

27. *extra de electione.* The words quoted come at the end

of a sentence in Greg. lib. i, tit. vi, cap. xx: 'Cum ea non fuit prohibentis intentio: qui successoribus suis nullum potuit in hac parte praeiudicium generare, pari post eum, immo eadem potestate functuris, cum non habeat imperium par in parem.' The same idea occurs in the quotation from the *Oct. Qu.* iv, cap. ix, in note on 35: 2. See also 32: 30.

32. *solutus est legibus*: a commonplace among the imperialists as well known as it is difficult to locate. Perhaps it is connected with the gloss of Salicetus on Codex lib. vi, tit. xxiii, cap. ii: 'Licet imperator legibus sit solutus, tamen vivere vult legibus.' The same idea may be inferred from Instit. i, ii, vi. Ockham quotes the phrase in his *Dial.* iii, tit. ii, lib. ii, cap. xxvi.

Page 37: 10. '*ius Quiritum*'. The gloss on *de usucapionibus* says: 'Vsucapio est acquisitio dominii per continuationem possessionis temporis lege diffiniti.' Except for the variation *adiectio dominii*, this is the definition of Modestinus (Digest. xli. 3. 3). Though this passage does not mention *praescriptio*, the connexion can easily be gathered from what is quoted from the gloss on 'frustra' above.

14. *Propterea*. A peculiar slip on the part of the copyist has given us *papa*. The difference between (1) *propter* and (2) *papa* in the MS. can be seen at line 33 below: both consist of *pp* but the former (1) has a line above with an extension of the curved stroke of the first *p* out on to its left side, whereas the latter (2) has merely an *a* superscript above the *pp*. A combination of both would give us *propterea*, which is probably the correct reading.

18. *glossa . . . capitulo 'abbate'*. This occurs in Greg. lib. v, tit. xl, cap. xxv, with a gloss *g* upon the words *contradicto iudicio* beginning thus: 'Ad hoc enim ut consuetudo valeat, oportet ut sit obtenta contradicto iudicio, id est, si ex adverso negetur consuetudo.' A little further on it says, 'Contradictum iudicium dicitur, puta cum ego dicerem hanc esse consuetudinem, adversarius dicebat non esse consuetudinem, et iudicatum fuit quod erat consuetudo.'

21. *glossa extra de consuetudine*. This last chapter is Greg. lib. i, tit. iv, cap. xi 'cum tanto'. The second half runs, 'Licet etiam longae consuetudinis non sit vilis authoritas: non tamen est usque adeo valitura, ut vel iuri positivo debeat praeiudicium generare nisi fuerit rationabilis, et legitime praescripta.' The gloss *h* on the last two words includes the phrase, 'vel saltem quod sit obtenta in contradictorio iudicio'; and another reference to the chapter 'abbate'.

23. *capitulo 'frustra'*: see note on 36: 17.

33. *confirmatur*. An interesting passage from a contemporary tract, the *Quaestio de potestate Papae*, says: 'Vel dicitur de confirmatione imperatorum per papam, dicunt aliqui, quod unus cardinalis Hostiensis consecrat papam, et tamen post consecrationem

nullam iurisdictionem spiritualem habet super ipsum papam : ita papa confirmat imperatorem et etiam coronat : et tamen post confirmationem et coronationem nullam iurisdictionem temporalem super ipsum habet' (p. 681 in Dupuy, *Histoire du différend*, &c., Paris, 1655).

Page 38 : 13. *vera*. This helps to corroborate the rather doubtful readings at 1 : 21, 22 : 19, and 28 : 1.

*et Romana*. It is worth noticing that Ockham in this tract is always drawing attention to the residence of the pope at Avignon. At 2 : 32 he says that he has left its communion, while here he definitely repudiates the idea of the identity of Avignon and Rome. The unpopularity of the captivity about this time is shown by John Villani, *Cronaca*, lib. x, cap. 70, where we read that absence from Rome is one of the charges against John XXII in April 1328 at his deposition by Lewis of Bavaria.

17. '*consuetudo*'. The heading for this, 'Iudicio, non manibus res ecclesiae defendantur,' is taken from the words of Gregory : 'Consuetudo nova in hac ecclesia et valde reprehensibilis erupit, ut, cum rectores eius patrimonii urbana vel rusticana praedia iuri illius competere posse suspicantur, fiscali more titulos imprimant, atque, quod competere pauperibus existimant, non iudicio, sed manibus defendant.' It is surprising that Ockham, if he wished to emphasize *armis et potentia saeculari*, did not quote the example of Ambrose of Milan in his struggle against Theodosius.

21. '*quicumque*'. Ockham sees the parallel between the acceptance by the church of goods handed over to it by rebels and the acceptance of goods from a father who has disinherited his sons, the property in both cases being under a tie. This last chapter of Causa xvii is a quotation from Augustine who advises any one who wishes to make the church his heir after disinheriting his son, not to come to him. He quotes the example of St. Aurelius, bishop of Carthage. A man who neither had, nor expected to have, sons, granted his property to the church, retaining only the usufruct. Sons were born and the bishop, to his surprise, returned him the gift. 'In potestate,' continues Augustine, 'habebat episcopus non reddere, sed iure fori, non iure poli.'

27. *omne regnum* : from Matthew xii. 25 : see also Luke xi. 17.

Page 39 : 5. *quod . . . celari*. It may be worth while to notice the fact that these words appear in exactly the same order in a passage of a contemporary, Nicholaus Minorita (Böhmer, *Fontes*, vol. iv, p. 604) : 'Octavo praefatus dominus Johannes, nitens ad extremum imperii, de facto per guerras graves et intolerabiles et per incendia et depopulationes et etiam per circumventiones et fraudes conatus est destruere et delere fideles imperii, subicere faucibus inimicorum suorum, quos fideles ecclesiae nominabat, et ipsis fidelibus imperii, qui se defendebant, crimen haeresis falso et perperam imponebat, prout praedicta sunt adeo notoria et manifesta,

quod nulla possunt tergiversatione celari, et etiam in appellatione per dictum dominum Ludovicum interposita continetur.' In this same Chapter xxii we also find the mention of *subiugare . . . guerras . . . perperam . . . tam notorie . . . falsis*, all in keeping with the ideas of the foregoing passage from Nicholaus. Notice also a forecast of this chapter on page 14 (*incendia et depopulationes . . . et fideles imperii* about line 10) and a sweeping summary of it on page 44, where these points are discussed more fully. The verbal parallel with Nicholaus may be a mere coincidence, but the argument suits John XXII or Clement VI equally well.

7. *alium in regem.* This was Charles IV, son of John the blind king of Bohemia. His election was first suggested at Rhense in September 1344, a few days after Lewis' explanation at Frankfort, that the terms for submission sent him by Clement VI were too monstrous to accept. Clement followed up this hostility to Lewis in April 1346 by ordering all Christian princes to expel him from their lands and by charging the electors to appoint a successor. Satisfied that Charles was sufficiently submissive Clement won over five of the electors; and in July Charles was elected (Villani, xii. 60). The Germans, however, resented this papal intrusion, and at a diet held by Lewis at Spires, condemned the new election as null and void. Aix-la-Chapelle and various other towns closed their doors to Charles, who withdrew to France with his father. At Crecy his blind father was slain in the fight, while Charles ran away. The new emperor was crowned at Bonn by the archbishop of Cologne in November, 'perchè la maggior parte teneano con Luigi di Baviera chiamato Bavaro' (Villani, xii. 78): but the civil war, rendered inevitable by this coronation, was averted by the sudden death of Lewis while hunting at Fürstenfeld, November 1347. The phrase *unam partem deceptorie protrahentes* describes the action of Clement VI in turning the electors against Lewis. Thus Chapter xxii here seems to date the tract as belonging to the second half of 1346 or the beginning of 1347, for Ockham died during the April of 1347.

28. *teste Augustino.* The words quoted from the last sentence of Dist. I, cap. xxv, except for *dissensionum* and *est* after *hominis*, are quite accurate, and begin, 'Verum in huiusmodi causis, ubi', and end, 'severitati, ut maioribus malis sanandis charitas sincere subveniat.' They are the end of epistle clxxxv (Migne, vol. xxxiii, p. 813) addressed by Augustine to Boniface.

Page 40 : 4. *Hinc Augustinus.* This is the ending of the quotation : the beginning occurs at 41 : 2 farther on and the middle at line 11 below. Causa xxiii, qu. iv, cap. xxxii, is as follows: 'Non potest esse salubris a multis correctio, nisi cum ille corripitur, qui non habet sociam multitudinem. Cum vero idem morbus plurimos occupaverit, nihil aliud restat bonis quam dolor et gemitus . . . Revera cum contagio peccandi multitudinem invaserit, divinae

disciplinae severa misericordia necessaria est. Nam consilia separationis et inania sunt, et perniciosa atque sacrilega, quia impia et superba sunt, et plus perturbant infirmos bonos, quam corrigunt animosos malos.' The words *id est excommunicationis et damnationis* have been enclosed in brackets as forming no part of the quotation. The gloss on this cites Dist. i 'ut constitueretur'. The original Augustine, with one or two very slight variations, is to be found in his *Contra Epistolam Parmeniani*, lib. iii, cap. ii (Migne, vol. xliii, p. 93), and not lib. ii, as Friedberg says in his edition of the Decretum.

13. *amplectitur et.* Between these words *veritatem* has been expunged in the MSS. There is no need to read it twice.

16. *Abscidendi.* Perhaps *abscindendi* was originally intended, for in Gal. v. 12 we read, 'Vtinam et abscindantur qui vos conturbant'. But the rest, which seems to be Ockham, certainly implies an interpretation which avoids the idea of περιτομή in ἀποκόψονται.

18. *asserant*: subjunctive, with indicative in the apodosis.

23. *Ei qui vult.* According to Sabatier the reading *in iudicio* belongs to the *versio antiqua*, for the Vulgate gives *iudicio* only.

25. *Ab eo, qui.* One or two small difficulties arise. The *vi* can hardly be distinguished from *iii*, while the line above the sign for *et* which would make it *etiam* and with which the copyist in all other cases has been particularly careful, has been omitted. Between *prohibere* and *et* the Vulgate reads, 'Omni autem petenti te, tribue.' Between *tibi* and *quae* the MS. reads *vestimentum* a second time, but the two dots below it, showing that the word had been already suspected, help to justify its removal from the text.

33. *doctrina Augustini* . . . '*non potest*': see note on line 4 above, where the whole of this chapter is considered. There are only two important points of difference in the text. The MS. gives *salubrior*, an easy slip for *salubris*, and *boni·s = boni scilicet*, through a dot placed accidentally between the *i* and the *s*.

**Page 41**: 11. *materialiter*: probably the right interpretation of the MS. $m^r$, as also at 44: 19.

28. *a re perservare.* This is an unsatisfactory passage, for *debet* is too abrupt for the beginning of a new sentence, and having an unconditional meaning can hardly follow on from the conditional word *dummodo.* Possibly *sit* to go with *dummodo* was intended, for there is a small *lacuna* with two dots after *lege.* Again *impetere* must = *exigere*, while *perservare* can only mean 'to be in keeping with'.

**Page 42**: 13. *taliter* followed by *de* expunged in the MS.

14. *iuvare vult.* The MS. gives *iuvare pro* with no main verb in the clause. *iuvaret* would do, but an imperfect subjunctive hardly balances a present indicative. *ecclesiae* is genitive and *quas* refers to *rebus.* This rather complicated sentence merely says

that where conditional gifts have been made by an emperor to a particular church, the emperor can enforce the terms without consulting the pope.

16. *praedecessores*. A plain *d* precedes this word in the MS. It is useless and has two dots placed below it. Possibly the copyist had begun to write the *d* of *praedecessores* and omitted to delete his error.

28. *res transit*: clearly a commonplace in civil and canon law. It is, however, not easy to discover precisely where it occurs in the former, because the glosses on the Decretals quote passages from the Codex merely to the effect that 'res transfertur cum causa', and the like. It may be ascribed (1) to Cod. lib. iii, tit. xxxiv, cap. iii, 'et in provinciali', where, on the subject 'de servitutibus et aqua' we read, 'Quare non ignorabis, si priores possessores aquam duci per praedia prohibere iure non potuerunt, cum eodem onere perferendae servitutis transire ad emptores eadem praedia posse'. Upon this a marginal gloss says, 'Et si post constitutionem servitutis praedium alienatum fuerit, transit cum suo onere'. Also on Digest, lib. xviii, tit. i, cap. lxvii, 'alienatio', which continues 'cum fit, cum sua causa dominium ad alium transferimus', the gloss remarks, 'res transit cum causa et suo onere'. It is more frequently cited in canon law and may be seen (2) in Greg. lib. iii, tit. xxx, cap. xxxiii, where it says, 'Statuimus, ut in praerogativam dominii generalis exactionem tributorum et censuum praecedat solutio decimarum . . . quoniam res cum onere suo transit'. The last phrase may also be seen in the text, towards the end, of tit. xxi, cap. v, of the same book, in gloss *h* on Causa xvi, qu. i, cap. xlii, and lastly as a parenthesis in the Extrav. comm. lib. iii, tit. vii, 'de decimis'. Conversely, in the Sext. Decr. lib. v, tit. xii, reg. lv, we have, 'Qui sentit onus, sentire debet commodum'. See also *Oct. Qu.* iii, cap. ii and cap. ix.

Page 43 : 3. *etiam nunc*: an emendation of the MS. reading *et non*, which makes nonsense in itself and robs *nisi possit ostendi* of all meaning. The point is clear, that if the properties and farms of the church paid taxes before they were possessed by the church, they ought to do so now, unless previously an agreement had been made to the contrary. There is an instance at 3 : 19 where the abbreviation mark on *et* has been omitted : moreover *nō̄* = *non* was written for *nunc* at 2 : 6.

10. '*quo iure*'. The language here is based upon the passage of Augustine quoted under the same chapter heading at 27 : 7.

12. *immunitatem*. This conjecture suits the meaning exactly, and is not rendered unlikely by the MS. reading. The only other alternative is *communitatem*, which may have been intended by the copyist here. Du Cange points out that *communitas* can mean *privilegium* or *immunitas*, but its use in this sense is very rare.

15. *nec a papa*. The marking of a parenthesis from this point

down to *privandus* helps to show that the phrases *nec a papa* and *nec ab alio homine* balance each other. In line 22 *quam* goes adverbially with *alio*.

26. *qui essent*. The reading *qui* is a conjecture for the word lying below a small blot between *omnibus* and *essent*.

28. *multipliciter*: probably the best reading. It is possible but unlikely that *multos* was intended. Another reference to deception occurs at 39: 2.

*totam Christianitatem conturbat*. So also Marsilius (*Def. Min.* 4: 26): 'dudum hactenus fuit et erit causa dissensionis perpetuae inter Christi fideles nisi a praefatis clericis huiusmodi usurpata potestas sive auctoritas totaliter auferatur.'

29. *usurpando*: the key to at least half Ockham's arguments in this *opusculum*. The arbitrary use for selfish ends of interdict and excommunication are obviously meant here: see also 40: 6. The tirade against papal abuses which follows *videlicet* was foreshadowed at the end of p. 13 and the beginning of p. 14, while much of it in detail has appeared earlier on. The several odd points of interest will be noted in turn, and, though it is not always certain how far Ockham is referring to current topics, there can be no doubt that the abuses he mentions were of long standing and afterwards created great opposition to the papacy.

Page 44: 3. *onera*: no doubt the *onera veteris legis* at 6: 15, while *importabilia* is explained by 6: 9.

5. *expetendo*. A wrongful demand for church money was made when in 1333 John XXII permitted Philip of Valois to pose as a crusader and collect a tithe on all ecclesiastical benefices of the western church (Villani, x. 196). When the collection was attempted in the empire (one is reminded of Tetzel) the emperor at Spires said that no money could be collected without his permission, and cast justifiable doubts upon the sincerity of Philip. If *aliarum* refers to churches, it is hard to see what Ockham can mean, unless *Romanae* refers merely to the church of Italy. See below *disponendo* at line 12.

6. *procurando*. Two good examples are Frederick of Austria and Charles of Luxemburg, who were able to disturb the one the beginning and the other the end of Lewis's rule by means of papal support.

7. *promovendo*: may refer to Count Gerlash of Nassau, a youth of twenty, who took the place of Henry of Virneburg as one of the electors in 1346: but it is true of many others. As for the attitude of the popes towards other nations, it may be pointed out that only one Englishman has ever been pope, Nicholas Breakespeare in 1154, and that shortly before John XXII's death sixteen of the nineteen cardinals were French (Raynaldus 1331, 33–4). The failure of the papacy to foresee the resentment of England and Germany at their almost complete exclusion from the Sacred College was one of the minor causes of the Reformation.

8. *relaxando . . . absolvendo.* Clement V released Edward I from his oath to observe the Charters (Rymer, ii. 978–9), and Clement VI released the Germans from their allegiance to Lewis in April 1346.

10. *remittendo.* Marsilius also lays great emphasis on the absurdity of the pope's interference in the case of vows made direct to God (*Def. Min.*, pp. 20–5), and points out that those who wish to break their vows must do so upon their own responsibility, acting upon conscience when they feel that *stante voto* they will be doing more harm than good.

11. *privando.* In theory the chapter had the right to choose bishops: such is the meaning generally attached to Magna Charta, cap. i, 'ut Anglicana Ecclesia libera sit.' In practice, however, the chapter was seldom given its freedom, a rule to which the election of Grosseteste at Lincoln is one of the pleasant exceptions. The difficulty in the middle ages lay in the fact that bishops were employed wherever possible as statesmen. The real choice in England lay between the pope and the king, and, though few will deplore the success of Stephen Langton, an English cardinal, over John bishop of Norwich, and Roger the sub-prior at Canterbury, whom his brother monks had elected, it was felt to be a great abuse that so many of our bishops were foreigners: cf. l. 7 above. Public feeling made itself felt shortly after Ockham's death in the statutes of Provisors and Praemunire, which excluded the pope from a share in the elections. Subsequent efforts of the popes failed to get these statutes repealed, though as time passed on king and pope succeeded in effecting a compromise. At the Reformation Henry VIII's system of 'congé d'élire' placed the episcopal body entirely in the hands of the government, and it is not difficult to see how reforming zealots in the reigns of the first two Stuarts opposed the bishops on the ground that they were being governed in the church by men over whom they had not even a parliamentary control.

14. *arctitudinem*: probably correct. There is no *c* in the MS. Du Cange remarks, *arctitudo negotiorum = moles onerum.*

17. *faciendo . . . catholicas*: for instance, the Bull 'ad conditorem' which obliged Franciscans to obey the pope as Catholics and disobey what they believed to be the spirit and intention of St. Francis. Conversely the 'ad conditorem' tacitly condemns the 'exiit qui seminat' of Nicholas III (q.v. note on 46: 26). The next few lines seem to refer to the philosophical views of the intellectuals of the day. Crude Aristotelianism was to blame for much of the purely intellectual side of the conflict (e.g. John of Jandun), and even Ockham's formal orthodoxy, which he always professed (see opening words of this *opusculum*), was at times strained. He even goes so far as to say that there may be two truths: 'quia nihil est unum et plura secundum philosophos, quamvis secundum theologos potest concedi.' (*Expos. Aur. Perierm.*, cap. v: see Prantl).

18. *profectioni*: perhaps *perfectioni* or *professioni* was intended.

19. *impediendo*. The dative after *impedire* here is rather odd, but the use of the accusative and infinitive at 14 : 15 is quite regular.

22. *captivent*: see note on 4 : 2.

27. *diffamando*: see pp. 1 and 2.

29. *occidendo . . . mancipando*: see note on 2 : 2. Ockham's rearrest and imprisonment were frequently enjoined: Riezler, *Vatikanische Akten*, nos. 1044 (June 1328), 1143, 1178, 1288 (April 1330, when all archbishops and bishops were ordered to capture him).

Page 45: 7. *sanctiatur*. In the *Lexicon Manuale* of Maigne d'Arnis (Paris, 1890) two verbs are found: (1) *sancire* = to sanctify, and (2) *sanctire* = to affirm or confirm. The *cc* of the MS. must give way to one *c* or to *ct*. The *Determinatio Compendiosa* (Mon. Germ. Hist. ed. Krammer, p. 23) in giving the phrase *lege sanccitum* supports the MS. spelling and indicates that the meaning of the second alternative is preferable in this case.

25. *principatus*: a strange repetition, but see 23 : 24 for a similar expression.

Page 46: 2. *zelum Christianitatis . . . secundum scientiam*. See Rom. x. 2: 'quod aemulationem Dei habent, sed non secundum scientiam.' The meaning here requires some attempted explanation. One reads in medieval writings of the conflict of reason and authority without being convinced that the issues are clear cut or that one party in the struggle leaned entirely for support on either the one or the other. In Ockham's point of view (if we do not misinterpret him) *scientia* means 'practical experience' and is in the general plan of things as opposed to *fides* as *ratio* is to *auctoritas*. We may take an imaginary case. Scripture enjoins a certain line of conduct and forecasts a certain result: we accept one point of the *auctoritas* of the scripture where it appears to be *secundum rationem* and our action *per fidem* leads on to *scientia*. All the remaining statements and injunctions of scripture are left again to *fides*, but not all are capable of experiment. However, success in one instance makes the *ratio* of some others more certain, and before long we have a *fides* in the whole of scripture which is sound in proportion to our acquired *scientia*. There is thus a marked difference between the *fides* of the man who accepts the ruling of the church on the ground that the church alone has *auctoritas*, and the *fides* of the man who is working out problems for himself by experience. A further remark of Ockham may be of use, occurring in his *Epistola ad Fr. Min.* (Paris, Bibl. Nat. no. 3387) at the end, where he says: 'Nam sanctarum regulas scripturarum mores hominum describentes, dum cotidie per experientiam verificatas (MS. verificario) conspicio, magis intelligo.' Compare his reference to *scientia* at 3 : 30 and the note on 26 : 24 at the end.

4. *indagandam*: *indagare* = *cingere*, a metaphor from hunting. For *indago* see Virgil, *Aen.* iv. 121. For the same idea see 44 : 13.

7. *alligatum . . . latrare.* The first is a reminiscence of 2 Tim. ii. 9: see note on 3 : 14. The second comes from Isaiah lvi. 10: 'Speculatores eius caeci omnes, nescierunt universi: canes muti non valentes latrare, videntes vana, dormientes, et amantes somnia.'

11. *haereticare*; = either *haereseos notam alicui impingere*, or *haereticum facere*: both distinct from *haeretizare* = *haeretice sentire.* (Du Cange.)

15. *sophisma.* The MS. makes this reading likely, but not certain, while to have the meaning of *fraus* it must be taken in the plural. It possibly refers to the logical trick of reducing a numerical description to absurdity. Something of this kind is suggested in Horace, Epistles II. i. 45–50, where *sorites* is discussed in the scholia of Pseudacron (ed. Keller, vol. ii, in Teubner series): 'Sicut, inquit, paulatim carpitur cauda equi, quousque tota sit extracta, ita et ego paulatim evellam numerum centum annorum, donec subducto acervo numeri decipiatur ille, qui per vetustatem temporis laudat poetas et carmen ipsorum et aestimat virtutem carminis numero annorum . . . sorites autem est, cum ultra modum capacitatis adsensionem audientis brevi adiectione producit dicendo unum et unum.'

26. *libello bullato*: because recently published and stamped with the *bulla* or papal seal, the mark of authenticity. It has since been included in the Decretals as Extrav. Ioann. tit. xiv, cap. iii.

'*ad conditorem*'. The outline of the Bull is roughly as follows. John XXII, influenced by *subsequens magistra rerum experientia*, claims the right to alter the provisions of his predecessor Nicholas III contained in the Bull 'exiit', declaring that the *dominium* or proprietorship of all Franciscan possessions should rest with himself and the church and that the Friars should have the *simplex usus facti*. But as it was sometimes expedient that certain books and articles of unreal property should be sold or even exchanged, Nicholas granted permission for such exchanges: the proceeds of sales, however, were to go to the Holy See or to a cardinal governing the order, who would authorize expenditure upon such articles as the Friars were permitted to use, on the additional understanding that with the permission of their authorities the Friars themselves on the impulse of piety and devotion or for some other honourable or reasonable cause might 'de vilibus rebus mobilibus intra vel extra dictum ordinem ordinare'. The result of all this had been a notorious scandal, nor was there any hope that good could come of this reservation of possession. The anxiety of the Friars for wealth, being greater after the expropriation than before, destroyed the argument that the expropriation was conducive to the spiritual perfection of poverty. In point of fact, the Friars were often richer after the expropriation.

John then proceeds to certain intricate arguments. According to the arrangements of Nicholas III the pope was to have the possession, the Friars the mere use: now, as things stood, the Friars had the use and the pope the mere possession: for where, he asks, was the *usus simplex*, when the article in question could be sold or exchanged or given away. In many cases *usus iuris vel facti* cannot be separated from proprietorship, for what sane man, he asks, can believe that of the eggs, cheese, and rolls of bread eaten by Friars, the Roman church retains the proprietorship and the Friars the use. Certainly *in rebus usu consumptibilibus* there can be no use without possession. Conversely, there can be no proprietary right (however useless) in the pope's hand when the substance in question diminishes. Use depends absolutely on *salva substantia*, which is impossible in the case of *res consumptibiles*: indeed, where they are concerned, there is neither *usus simplex* nor *usus a dominio separatus*. The correct term for *uti* which diminishes the substance is *abuti*: and this cannot occur as an act apart from possession.

The remainder of this extensive Bull adds little of immediate importance to the foregoing outline, except that John XXII mentions as one of his reasons for interfering the ever increasing scandal caused by perpetual lawsuits. The Bull 'exiit' was published in August, 1279, and afterwards included among the Decretals as Sext. Decr. v, tit. xii, cap. iii.

Page 47: 4. *valeret conferre*. The MS. gives the equivalent of *valeret conferret*; together with three dots below *valeret*. The subscript indications of error in the MS. are generally sound, but on this occasion *conferret* by itself is less attractive than the full phrase, which we have in the indicative four lines above, as it appears in the Bull 'ad conditorem'.

5. *mendicantium*: the friars or men who begged their bread, as opposed to *religiosi* or monks who lived according to a rule of daily routine within a monastery.

8. *in noviciatu*. This *opusculum* like the last satire of Juvenal ends abruptly in the middle of a sentence. The MS. gives no special indication that the work is unfinished. The last ten lines bear an extraordinary parallel to the middle of cap. ii in the *Compendium Errorum*:—(. . . videlicet *Ad Conditorem*, Primus error . . .) 'Tertius error in praedicta destitutione insertus est, quod expropriatio sive abdicatio bonorum temporalium per votum nihil potest conferre ad perfectionem, si eadem sive aequalis sollicitudo perseveret post expropriationem quae inerat. Hunc errorem ponit sub his verbis: *Restat quod si sollicitudo eadem post expropriationem huiusmodi, quae ante ipsam inerat, perseveret, ad perfectionem huiusmodi talis expropriatio valet nil conferre.* Verba eius erronea et virulenta, in quibus veritati contradicit et perfectionem virorum religiosorum in officiis specialiter constitutorum dirimit et annullat. Nam constat quod abbates priores et ceteri religiosorum

praelati, nec non inferiores in officiis ordinis sui constituti maiorem de communi lege habent sollicitudinem circa temporalia acquirenda, conservanda et dispensanda post votum paupertatis et expropriationis propter officia assumpta vel eis iniuncta : quam in noviciatu ante expropriationem talem habuerant. Nec propter hoc sequitur, quod expropriatio, quam voverunt, nihil eis confert ad perfectionem, imo expresse sequitur contrarium.' It seems very likely, therefore, that the last sentence should continue with the words *ante expropriationem talem habuerant*, but no additional suggestion can take it further, because all the ideas and phrases in the above passage have been used in these last ten lines. The difficulty, as things stand, seems to lie in the words *et ita cum* at line 4 above. Thus (1) if they are to be retained and the sentence end at *habuerant*, some such meaning as *eo quod* must be substituted : (2) on the other hand the omission of *et ita* would unify the sentence : (3) possibly *et ita, cum* thus punctuated was intended with a main verb to follow on after the clause begun by *quam*.

## ADDITIONAL NOTE

SEVERAL points of technical interest remain. The manuscript is described as one of the MSS. of the King's Library (*ex aedibus Iacobaeis*) in the British Museum : parchment : 14th century : ff. 1–100 : $9\frac{5}{8} \times 6\frac{3}{4}$ inches : coloured capitals. See Sullivan's articles in the *Eng. Hist. Rev.* for Apr. 1905, p. 298, and in the *Amer. Hist. Rev.* for Apr. 1897, p. 412.

It contains three works, none of them complete :

1. The *Defensor Pacis* of Marsilius of Padua, wrongly ascribed to Ockham in the *incipit*.

2. Part of the Papal Bull *Quia vir reprobus*.

3. The *De imperatorum et pontificum potestate*, ff. 95$^{v}$–100$^{v}$. The MS. once belonged to Thomas Gascoigne (Chancellor of the University of Oxford in 1434) who gave it to Lincoln College. Gascoigne died about 1458. The title of the third (?) work is in Gascoigne's own handwriting on folio 1$^{v}$ : *Hockam in defensorio*.

The table of contents given on folio 94$^{v}$, being of no great interest, has been omitted. It is in the form of chapter headings, thus—

*Capitulum 3$^{m}$ quod principatus papalis ad supererogatoria nequaquam regulariter se extendit.*

*Capitulum 4$^{m}$ quod principatus papalis nequaquam regulariter se extendit ad iura et libertates aliorum.*

The probable date of the handwriting, fourteenth century, is conveniently limited by the fact that Gascoigne owned the copy. The

handwriting appears to be Gothic, more or less broken down, but with a peculiar formation of the *a*, which always starts level with the lower line and rises well above the upper line like the reversed Roman capital, thus—ꟃ. The nationality of the copyist may have been English, but it is not certain.

About forty words in the text represent deliberate alterations. In nearly all cases either the addition or alteration of a single letter has been sufficient, or the marginal note of the *secunda manus* has suggested the addition of some such word as *per*. This number includes half a dozen words expunged in the MS. itself, while three or four words have been introduced into the text. In two cases only has the MS. been so difficult as to require a mere guess. The real difficulty in the handwriting lies in the irregularity of the abbreviations, for the copyist has at times abbreviated the same word in different ways in the same line. No doubt many other emendations could legitimately have been made, but where the words as they are found make tolerable sense, they have been left alone. None the less there are several passages which would be extremely hard to translate as they stand, but Ockham himself is probably to blame for their obscurity: cf. last five lines of cap. vi. As a rule one reference only has been given in the foot-notes of peculiarities of spelling.

Fortunately no doubt can be entertained with regard to the authenticity of this tract. The opening words refer to Ockham as the author, and later on the *Dialogus* is mentioned: but had any other name appeared the conviction would still remain, that the author of this tract was the author of the *Dialogus*, the *Opus Nonaginta Dierum*, and the *Compendium Errorum*. The same tricks of style are abundant everywhere, particularly in the position of double adverbs and adverbs followed by adverbial phrases. On the last page Ockham quotes a passage from his *Compendium Errorum*, without acknowledging it, and in doing so really re-writes the passage. Ockham, clearly enough, was relying on his memory: a forger with the *Compendium* in front of him would have been much more successful.

The date of the composition of the tract also leaves little room for doubt. Two references are made to the *Dialogus*. The middle or second part of this *Dialogus* was written before 1340: and indeed Ockham's first reference at 4 : 8 to the *Dialogus*, *quem dudum incepi* cannot be interpreted as a reference to Part II, because (*a*) Part II is not a dialogue, but merely a narrative treatise placed so as to join Part I and Part III, and (*b*) there is no connexion in idea between this tract and Part II. As was indicated in the note on 4 : 8, Part III is amply connected with this tract, and it was left incomplete.

That this Part III was finished by 1343 we learn from Johannes Victoriensis (Böhmer, *Fontes*, vol. i, p. 447) who tells us in his last

chapter under this date that a copy was sent in its three Parts (he cites them correctly) to Albert II of Hapsburg. On the other hand Ockham was dead before the end of April 1347. The present tract must have been written within these four years. Further, as the phrase *alium in regem eligi procuraverunt* at 39 : 7 points clearly to the election of Charles IV in the autumn of 1346, we may safely date the composition as late 1346 or early 1347. Cf. 39 : 25.

Lastly, the motive for writing this present tract will be clear enough when we consider the portentous size of the *Dialogus*. This literary monument was far too broad in structure and far too crowded with detail to influence men to read it. One might almost conjecture that Ockham omitted to complete it because he was already conscious of its failure. The real need was for an outline of Ockham's main arguments with just enough detail to answer successfully the questions which the German clergy were asking. We may gather from 24 : 4 that this was the position : the various points had been duly discussed in his other works, *quapropter in hoc compendio sufficiat inserere aliqua notabilia generalia, per quae valebit intelligens ad illa omnia respondere, quae praedictis adversantur*. In all likelihood this was the last work to be written by Ockham. Its usefulness may have lost much in the early death of its author. If this is true, it is a remarkable coincidence that both Ockham and Marsilius should have written a political sketch within the last few months of their lives, and that both works should have descended to us through the medium of a single manuscript.

# QUOTATIONS FROM CANON AND ROMAN LAW

7 : 6 Causa xi, qu. i, cap. xxix, *te quidem.*
7 : 25 Sext. Decr., lib. v, tit. xii, reg. xxvi, *ea quae.*
8 : 14 Dist. xii, cap. xii, *omnia.*
8 : 28 Causa xxxii, qu. i, cap. xiii, *integritas.*
10 : 24 [a] Greg., lib. ii, tit. xxviii, cap. lxv, *sua nobis.*
11 : 33 Causa xxii, qu. v, cap. xviii, *de forma.*
11 : 33 Dist. xcv, cap. vii, *esto.*
12 : 5 Causa xxii, qu. v, cap. xviii, *de forma.*
19 : 11 Causa viii, qu. i, cap. xi, *qui episcopatum.*
20 : 13 [b] Causa viii, qu. i, cap. vii, *apostolica auctor.*
20 : 22 Causa viii, qu. i, cap. viii, *olim.*
20 : 22 Causa viii, qu. i, cap. ix, *in scripturis.*
20 : 23 Causa viii, qu. i, cap. xiii, *clemens.*
20 : 23 Causa viii, qu. i, cap. xix, *sunt quidam in eccl.*
22 : 4 Causa xi, qu. i, cap. xxx, *sicut enim.*
22 : 12 Causa xi, qu. i, cap. xxix, *te quidem.*
24 : 11 [e] Dist. xciii (Gratianus), Pars i, *obedientiam.*
24 : 25 [c] Dist. iv, cap. iii, *in istis temporal.*
24 : 27 Greg., lib. i, tit. ii, cap. xiii, *quoniam constitutio.*
25 : 19 [a e] Cod. Iustin., lib. iii, tit. xxviii, cap. iii, *si mater.*
25 : 19 [e] Sext. Decr., lib. v, tit. xii, reg. xlix, *in poenis.*
26 : 9 Causa ix, qu. iii, cap. viii, *conquestus.*
26 : 24 Dist. xcvi, cap. iv, *ubinam.*
26 : 25 Dist. xcvi, cap. ii, *nos ad fidem.*
27 : 2 Dist. xcvi, cap. x, *duo.*
27 : 7 Dist. viii, cap. i, *quo iure.*
27 : 28 Causa xi, qu. iii, cap. i, *sententia pastoris.*
28 : 6 Greg., lib. ii, tit. xxvii, cap. i, *sententia contra.*
28 : 15 Greg., lib. v, tit. xxxix, cap. xl, *per tuas.*
28 : 18 Greg., lib. v, tit. xxxi, cap. vii, *cum ad quorumdam.*
28 : 24 Causa ix, qu. iii, cap. viii, *conquestus.*
28 : 31 [a] Greg., lib. v, tit. xxxi, cap. xiii, *dilectus.*
28 : 32 Greg., lib. i, tit. xxix, cap. xi, *sane quia.*
29 : 3 Greg., lib. v, tit. xxxix, cap. xl, *per tuas.*
30 : 1 Causa ii, qu. vii, cap. lvii, *admonendi.*
30 : 10 Causa xi, qu. i, cap. xii, *christianis.*
30 : 10 Greg., lib. ii, tit. xxiii, cap. iv, *nullus.*
30 : 11 Causa iii, qu. ix, cap. x, *decrevimus.*

30 : 12 Dist. lxxiv, cap. viii, *honoratus.*
30 : 22 Causa xvii, qu. iv, cap. xxx, *nemini.*
30 : 23 [d] Causa xvii, qu. iv, cap. xxix, *si quis suadente.*
30 : 28 Cod. Iustin., lib. ix, tit. xxix, cap. ii, *disputare.*
30 : 29 Cod. Iustin., lib. i, tit. i, cap. iv, *nemo.*
31 : 12 Greg., lib. v, tit. xli, reg. ii, *estote.*
31 : 23 Dist. xlvi, cap. ii, *sunt nonnulli.*
32 : 4 Causa xi, qu. iii, cap. lvii *si quis dixerit.*
32 : 30 Greg., lib. i, tit. vi, cap. xx, *innotuit nobis.*
33 : 2 Sext. Decr., lib. v, tit. xii, reg. xlvi, *si quis in ius.*
33 : 13 Causa xii, qu. ii, cap. xlix, *sicut ecclesia.*
33 : 21 Greg., lib. iv, tit. xvii, cap. xiii, *per venerabilem.*
35 : 23 Greg., lib. i, tit. iv, cap. xi, *cum tanto.*
36 : 18 [a] Dist. viii, cap. vii, *frustra.*
36 : 26 Greg., lib. i, tit. vi, cap. xx, *innotuit nobis.*
36 : 32 [e a] Cod. Iustin., lib. vi, tit. xxiii, cap. ii, *publicati.*
37 : 10 Dist. i, cap. xii, *ius quiritum.*
37 : 18 [a] Greg., lib. v, tit. xl, cap. xxv, *abbate.*
37 : 22 [a] Greg., lib. i, tit. iv, cap. xi, *cum tanto.*
37 : 23 [a] Dist. viii, cap. vii, *frustra.*
38 : 17 Causa xvi, qu. v, cap. i, *consuetudo.*
38 : 21 Causa xvii, qu. iv, cap. xliii, *quicumque.*
39 : 29 Dist. l, cap. xxv, *ut constitueretur.*
40 : 4 Causa xxiii, qu. iv, cap. xxxii, *non potest.*
41 : 1 Causa xxiii, qu. iv, cap. xxxii, *non potest.*
42 : 28 [e] Greg., lib. iii, tit. xxx, cap. xxxiii, *cum non sit in.*
42 : 29 [e] Cod. Iustin., lib. iii, tit. xxxiv, cap. iii, *et in provinc.*
43 : 10 Dist. viii, cap. i, *quo iure.*
46 : 26 Extrav. Ioann., tit. xiv, cap. iii, *ad conditorem.*

[a] Gloss quoted.
[b] Gratian quoted in section beginning 'his omnibus'.
[c] Gratian quoted in section beginning 'leges instituuntur'.
[d] Gratian quoted in section beginning 'committunt'.
[e] Indefinite or uncertain reference only.

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| | |
|---|---|
| 1 : 7 | John 3, vv. 20, 21. |
| 2 : 30 | Matt. 10, v. 23. |
| 3 : 14 | 2 Tim. 2, v. 9. |
| 4 : 6 | Tobit 1, v. 5. |
| 5 : 9 | 2 Tim. 2, v. 4. |
| 5 : 21 | Luke 22, v. 25. |
| | Mark 10, v. 42. |
| | Matt. 20, v. 25. |
| 6 : 9 | Acts 15, v. 10. |
| 7 : 4 | 2 Tim. 2, v. 4. |
| 8 : 7 | Jas. 1, v. 25. |
| 8 : 8 | Gal. 5, v. 13. |
| 8 : 11 | Gal. 5, v. 19. |
| 9 : 10 | Titus. |
| 9 : 18 | John 6, v. 38. |
| 9 : 20 | John 18, v. 36. |
| 9 : 30 | Matt. 2, v. 3. |
| 10 : 19 | Matt. 16, v. 19. |
| 13 : 3 | John 21, v. 17. |
| 14 : 29 | Luke 22, vv. 25–27. |
| 15 : 3 | Matt. 20, v. 25. |
| | Mark 10, v. 42. |
| 15 : 27 | Luke 22, v. 25. |
| 16 : 2 | 1 Sam. 8. |
| 16 : 7 | Luke 22, v. 26. |
| 16 : 18 | 1 Peter 5, v. 2. |
| 16 : 30 | Acts 3, v. 6. |
| 17 : 9 | 1 Peter 5, v. 3. |
| 17 : 12 | Luke 22, vv. 25, 26. |
| 17 : 20 | Hos. 8, v. 4. |
| 17 : 24 | Luke 22, v. 26. |
| 18 : 2 | Luke 22, v. 27. |
| 18 : 7 | Psalm 138, v. 17. |
| 18 : 7 | Psalm 44, v. 17. |
| 18 : 21 | Psalm 103, v. 27. |
| 19 : 2 | John 21, v. 17. |
| 19 : 10 | 2 Cor. 10, v. 8, or 2 Cor. 13, v. 10. |
| 19 : 12 | 1 Tim. 3, v. 1. |
| 19 : 21 | Matt. 20, v. 25. |
| 21 : 11 | Prov. 11, v. 14. |
| 21 : 13 | John 10, v. 16. |
| 22 : 31 | Jas. 1, 25. |
| 24 : 9 | Matt. 16, v. 19. |
| 30 : 3 | Prov. 22, v. 28. |
| 31 : 26 | Matt. 7, v. 20. |
| 32 : 1 | Isa. 5, v. 20. |
| 32 : 4 | Prov. 17, v. 15. |
| 38 : 27 | Matt. 12, v. 25. |
| 40 : 15 | Gal. 5, v. 12. |
| 40 : 23 | Matt. 5, v. 40. |
| 40 : 25 | Luke 6, vv. 29, 30. |
| 46 : 2 | Rom. 10, v. 2. |
| 46 : 7 | 2 Tim. 2, v. 9. |
| 46 : 8 | Isa. 56, v. 10. |

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